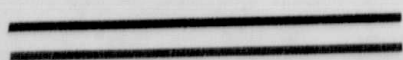
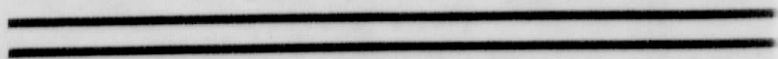
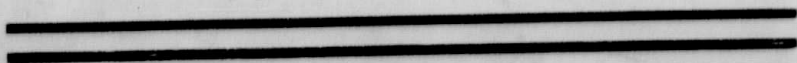
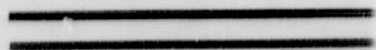


44.00

START



FIRST



SIDE

44-115

O. H. M. S.

Sp. Turpin G.L.

M. F. B. 270

MAN/M 12-61 (NWS-09-70)
EAL 1772-86-67

SCHEDULE.

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

Accused: F39699 SPT B L TURPIN 1 CAN. RD. CONNS COY
RIE.

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
(Insert "alternative" where applicable.) 1st <u>A.A. SEC 14</u>	(See Instrs p 2.) <u>N.G.</u>	(See note below.) <u>NOT</u>	
2nd		<u>GUILTY</u>	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offenses see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)
Time in confinement awaiting present trial—a total of _____ days, of which _____ days were spent in hospital. (2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)
Sentence Awarded by the Court: _____

(Sgd) _____ Date awarded _____ (Sgd) _____ President. (RP 45, 50)
(Judge-Advocate, if any) _____
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date _____ (Sgd) _____ Commanding _____

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

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

My decision on the finding(s) and sentence set forth in Part I is:
I direct that the accused be not committed to prison or detention barracks until further orders. (1)
(1. AA 57A. Delete if not used.)
(Sgd) _____
Date _____ Commanding _____
Confirming Officer _____

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

Accused _____ Date _____ Signature of Offr _____

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

Convened by Order of MAJ. D. A. S. BRADLEY Comd 2nd Army (dated _____)
ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/Rank or A/APPmt, if any, see AA 182, 183, fn 8, KR Can 308, 328, 330.)
Number. (a) Prmnt R. (b) Apptmt, A/R or A/APPmt. Full Christian Names. Surname. Unit.

F-39699 SPT B L TURPIN 1 CAN. RD. CONNS COY
RIE.
PROCEEDINGS REVIEWED
Under Review
26 Jan 45
OFFICE PROCEEDINGS OF TRIAL.
Held in the Fd in (country) BELGIUM on (date(s)) 12 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 16/53.

A1. The President, Members, waiting Member, JA, if any, and Offr under instr, if any, assemble, and the Court is closed.
(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for notes and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)
A2. The President initials and lays before the Court the Convening Order and Charge Sheet (c) attached thereto. (1) The Court is satisfied that it is properly convened and constituted (2), accused is (was) amenable to military law, and each charge discloses an offense. (3)
(1. As to use of Summary of Evidence see RP 17 fn 6, 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)
A3. The Court is opened. The accused is (was) brought before the Court. At _____ hours trial commences.
A4. The Prosecutor produces a Medical Certificate that accused is (was) fit to undergo trial by court-martial. (1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO. (2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)
A5. President to accused: Do you object to _____ as interpreter? Ans _____
The interpreter is sworn. (1) Do you object to _____ as shorthand writer? Ans _____
The shorthand writer is sworn. (1)
(1. RP 72. Delete, if none employed.)
A6. The Convening Order and names of the President and Members of the Court are read to the accused. (1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans _____
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)
A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn. (1) The following are the ranks, names and units of the offrs comprising the Court, etc:
President MAJOR D. P. DUNKLEY CHESHIRE
Member CAPT. G. D. HAMILTON R.A.
Member LIEUT. P. KOROPATNIK R.C.A.
Judge-Advocate JA.
Prosecutor LIEUT. J. GLEDHILL R.A. (SOLICITOR)
Defending Offr CAPT. G. L. KYLE R.C.A.
Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)
A8. The accused _____ before arraignment make(s) (no) (1) plea _____ (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For format of record see references in fn to RP cited. Insert in all rank and name of the accused making the plea.)
A9. The accused is (was) arraigned (separately) on all charges in the charge sheet. (1) The accused does (was) not object to any charge. (2) There is no amendment to be made to the Charge Sheet. (2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)
A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form _____
PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AV 22-135

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans.....(4)

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

5. Statement, if any, recorded per Notes.)

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

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

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

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

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

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

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

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

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

(1. RP 37(N) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B6 of Record Form B above.(1)

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

Ans. Yes..... Are they witnesses as to character only? Ans.....(4)

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

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, (D3(e)).

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

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 46(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) Or, the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

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

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

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

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

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

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1212, MML p 90, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(8), 68(1), KR Can 504. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 587. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

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

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

As to reasons for showing (a) permanent or confirmed rank, and (b) appointment, A/Rank or A/Appmt, if any, see AA 182, 183, fn 3, RR Can 308, 323, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-39699	Sapper	Nil.	George Louis	TURPIN	1 Canadian Road Construction Coy R.C.E.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) Dec 1944~~ ^{committed} endorsed by me, ~~(or by an officer of my staff for me)~~ ^{Done} "To be tried by Field General Court-Martial".

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

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

~~I am unable to appoint (a) three Officers to form the Court, (b) a Field Officer as President; for the reasons I have attached hereto.~~ ^{(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) Done}

~~I also appoint as Judge Advocate the Officer mentioned hereunder.~~ ^{(RP 106(E). Delete, if none appointed.) Done}

PRESIDENT.

Major (Rank)	D. F. DUNKLEY (Must be named. RP 106.)	Cheshire Regt. (Unit)
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MEMBERS.

Captain to be detailed by Comd 101 Rft Gp. (Rank)	to be detailed by COM 2 Army Troops R.E. (Named or detailed. RP 106.)	 (Unit)
--	--	------------

WAITING MEMBER.

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

JUDGE-ADVOCATE.

(Rank)	(Must be named, if any. RP 106.)	(Unit)
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On Active Service in the Fd

in BELGIUM (Country)	<i>D. F. Dunkley</i> (Signed personally. RP 105 fn 2.)	Brigadier. (Rank)
-------------------------	---	----------------------

Dat 5 Dec 1944.	Commanding Second Army Troops.	Convening Officer.
-----------------	--------------------------------	--------------------

CONVENING OFFER WILL INITIAL ALL DELETIONS AND ALTERATIONS

+ Insert "111" or "1111"

Date: 6 Dec 1944

Signature of the KODAK Officer

[Handwritten signature]

to undergo test by Court-Inspector.

1 Cartridge Head Construction per P.R.

1 quantity that no. K-20603

EDWARD G. BROWN, JR. (mirrored text)

Post Box from [unclear]

[Handwritten notes and scribbles]

Office under Instructions

2nd Lt. W. B. RENDALL

R. A. (NEWFOUNDLAND)

J. V. [unclear] [unclear]
Pres. of
T.C.C.M.

<u>Presentation</u>	<u>Opening Address</u>
Definition of stealing Would be proven that can of same age was public property	
Content of Presentation is that accused had the same as me at his old intended to deliver part of it here now.	

The accused had been
at that corner, and that
is why I searched 988
the area.

After Major's return
but his initials on the
can. 2/16/41 Gurner and
I replaced it behind the
concrete slab; the can
could not be seen
without moving the concrete
slab.

The next day at 0530h
I looked behind the slab;
the can had gone. 2/16/41

Gurner was with me.
I got 2/16/41 Dwyer,
and 2/16/41 Gurner; we
went to Accardi's field;
2/16/41 Sgt. Gony and 2/16/41
Gurner searched the back
of the accused. I was
present when the ballistics
was found. The can of
park sawage was at which
I produced to-day in court.
The accused was present
at the time.

X.X.D.

It is my regular duty to
be near the gate at 1500h.
There has been considerable
stealing in the Unit.

Two days and Land 8
on 9 and 12, were 807
by night

I told the Guard to
watch sea, the plane
when the man was left,
nobody reported anything
The aircraft was displayed
in the 6 month and, and
I suspected him

R x 2

Occurred was not in
during the evening of 10/1/44

D-1560247 2/6th. J. Connor. 898

1. Boden Road, Boden Coy. 2nd
squad, states. On 4/11/44
I was sent to ground.

At about 1800 hours
in company with 2/6th
Connor, I searched the
area under the Garbage
bin. On the ground and
behind a cement slab.
I found a can of
sausage meat, it was
similar to the one
in front.

Sgt. Harkay was
with me.

X.X.X.

As G.I. bonds are in
duty for 24 hours.

The can was at once
replaced. I went away.

8. 00597. 2/16/49. Turner. 117
1. L. L. L. Red. Can. Bay. R. C. C.
2. L. L. L. Red. Can. Bay. R. C. C.
I was 4 d. bands of meat
4 d. at 1800 hours.
I was with 4 d. t.
W. B. B. and 2/16/49. L. L. L.
and by a series of
with my flashlight, we
found a can of saw age
meat behind a slab of
concrete, it was similar
to the one in L. L. L.
4 d. t. W. B. B. took
charge of it, I saw
the can in the same
place behind the cement.
I shot again at 2000 hrs.
it was still there at

0600 hours the next morning.
At about 0845 hrs.
I placed the Accusol, when
I was very much
placed under a mat by me,
as I was present when
a can of saw age meat
was found under his
bedding; the Accusol
was not present when
the can was found
under his bed; the can
of saw age meat was
similar to the one in
L. L. L. and 4 d. t. L. L. L.

Gay & Mackay were also
present when the can was
was found under a
bed.

X X X

The can was there at 0615 hrs
on 19/11/44.

The can was located
at Post No 3.

The Guard were instructed
to stop people going near
the can, unless the can
was.

The sentry on No. 3 Post
dismounted at 0600 hours.

It gets light at 0730 hours.

Not R X D

87

M. 5043 Lt. H. A. Dwyer
C. A. S. C. cuisine. it also
can of sausage meat
be found in an army
kitchen, on 17/11/44
Had 30 tins in my
cookhouse, the can in
question had not been
cooked.

On 17/11/44, I was
present when under the
head of the 9th platoon
of the Accused, when
I recognized, was found
a tin of canned Sausage
Meat, it was similar
to the one in camp.

In my presence
the Accused said he
had found it on 15/11/44
in the Dumbkin Group
mess hall for Garbage.

The Accused was
employed in my cookhouse
at the time.

X X X

I am 1/2 Ration after they
arrive in the cookhouse
Accused had worked
6 days in my cookhouse
I did not suspect him
I am therefore had been
stated.

298
All the reactions were not
locked up.
I did not miss on two
of same apt. me at the very
last cooked them; he
does not know how
many times I draw.
Accused was not the
autoback drinks means that
day.

No. R x 3

Letter T. J. Home by: 1. John L. Home
by: C. R. E. ... the ... and
... 2/11/44. I recorded a
... of Evidence
... to him.
... the ... of the
... for the Presentation
... the ... and ...
... I ...
... he then ...
... to make a ...
... and he ...
... to him ...
... in my presence ...
... produce the statement
(Check # 11)

Refer to

898 11

I feel Coffey makes a submission
that Alvin Karpis should not be
called on for his Defense.
(Statement "B" attached.)

I re-iterate in reply

From a fair case.

I advise of recent possession

I feel Coffey does not reply

Grant after clearing

over rule submission

I feel Coffey's opening
address to which "C"

✓

B. J. ...
SUBMISSION NON PRIMA FACIE

IN THE CASE OF

F.39699, Sdr TURPIN G.L.

1 Cdn Road Constr Coy., R.C.E.

Gentlemen, the prosecution has failed to present any evidence worthy of carrying on this trial. The accused should not be called upon for his defence. The burden of proof is on the prosecution to give evidence showing the commission of the offence and connecting the accused therewith.

The accused was employed in the kitchen and in such capacity would have access to all the rations. If he had intended to steal; there would be no necessity to bother with one single can which had been retrieved from the garbage. The last time the accused was seen near this particular can, as given by evidence, was 1800 hrs Sat. From that time until 0800 hrs a guard was near under direct instructions to watch for somebody who might try to remove the can. Nobody was apprehended removing the can yet 14 hrs later the can is found on the bed of the accused. A number of people were aware of the location of the can and anyone could have removed it to the billet. I am certain also that anybody could have placed the can on the accused's bed on being aware that the can was being searched for by a party. Too many people had knowledge of this particular can, too many had access to it and all could be under as much suspicion as the accused. From the evidence as submitted by the prosecution how can the accused be connected with the commission of the offence more so than the guard or any other person in the same billet as the accused. Therefore the accused should be acquitted of this charge.

W. H. ... Capt R.C.E.

OPENING ADDRESS BY DEFENCE

IN THE CASE OF

F39699, Spr. TURPIN G.L.

1 Cdn Road Constr Coy., R.C.E.

-c "J.V. ..."
V. ...
P.C.M.

Gentlemen, this case against Spr. Turpin is very confusing. The evidence brought out by prosecution is very poor. The element of doubt exists. The defence shall inquire into the time factor. The accused did not even have the opportunity to take this can. If he could not obtain the can then somebody else took the can and placed it in his bed. Somebody else is involved. The accused in his own statement on oath will explain his actions, (1) his presence at the out-of-bounds entrance at 1800 hrs Sat. but this is a time previous to when the can was taken, (2) from 0600 hrs to 0830 hrs Sunday. - At this time, ^{as in} Sgt. McKay's evidence the can is there. From that time on the can is under guard yet at approx 0800 hrs the can is in the accused's bed. How did it get there? Did the guard take it and put it there? Did the guard commander take it or did Sgt. McKay take it and put it in Spr. Turpin's bed. *Somebody must have found it there*

It appears that the guard was taken off for some reason after 0600 hrs. There is a time gap here on the guard over the can so the prosecution immediately states "HA! this is the time and the opportunity for the accused to take this can". The defence will show by evidence that the accused on reveille did report to the kitchen for duty and was there until called to report to his billet for bed check. How can you explain anybody getting up at such an hour to procure one salvaged tin of sausage meat? Gentlemen, this is most confusing to me and an utter waste of your time and mine, *but we shall attempt for regular*

McKay Capt
ref

The Accused:

F. 39699. The, G. L. Turpin
 sworn, states: On 18/11/44 at
 the Hayfield site in the
 charge of Garbage Dumpster
 and it is used for obtaining
 Garbage; I noticed some
 used tin in a box and
 they had not been placed
 in Hayfield Dumpster; I
 picked the box up and
 gave it to Hayfield; on
 dumping the box he saw
 one tin was unopened; he
 gave it to me; I examined
 it for below label; it
 had none; I had it on
 a concrete slab; I returned
 to the cockhouse and I
 forgot all about the
 can; it was about 0900 hr
 the same afternoon about
 1400 hr I remembered the
 can, but noticed it
 had gone; the coaks
 frequently pass this place
 and I thought somebody
 had taken it.

About 1730 hr I
 finished work and went
 towards the east of house
 entrance, to collect some

cognate for a friend of
mine. On returning at 8 PM
about 20 mins later I
ran into Sgt Mackay.
He asked me what I was
doing, and I said I was
going out. He told me
I could not use that gate,
so I used the main
entrance, and went out
for the evening.

I returned at 11:00 am
and the boy said that
Mackay had been in
earlier enquiring for me.
I asked why; nobody
knew. I went to bed.

Next morning I
awoke at 0700 hrs, and
went to the kitchen for
duty. Like I only ordered
me to feel down. I did so
until 0730, then as usual
I went to my billet to
make my bed up for
inspection. On entering my
billet I found a
Guard composed of 4th
Duchess standing over my
bed with a rifle. He
told me nobody was
allowed near my bed.
I asked why. He said
no why.

I went back to the
kitchen, on the way I 888
saw Pople Duley & 4/6th Gunner
talking, on entering the
canteen, Pople Duley said
to 4/6th Gunner: "I have a
young man, the latter
took me to my killed;
Gay & Barkley and they say
were that Gay & Barkley
took a tin from off my
bed & said, "Where did
you get that?" I said: "I
know nothing about it &
have not seen it before
unless it is the one I got
from the 8th company yesterday
I did not steal
the can; I did not put
it in my bed. I am
not a thief, and I
cannot understand why
I am accused.

I have 5 years
service and have been
away from Canada since
1939 on service

I have been an
N.C.O. I wanted to come
over a.

I have never been
in any trouble of this
nature either in the Army

an American life

888

R. X. D.

I was surprised to see a
full tin in the box
of garbage.

It slipped my way
after talking to Hayfield
for a few minutes.

On 19/11/44 I had breakfast
about 0700.

I was at my billet at
0750 hrs on 19/11/44.

There were plenty of people
in my billet when I
found the sentry there.

I was talking to Sgt
Wackay and not to Sgt
Dunlop and I replied on

it did in my imagination
in the first.

I don't know how the case
got in my bed. I have
my idea.

It looks as though I have
been framed.

I did not put the case
in my bed.

Not R. X. D.

Q by Capt.

By conversation with Sgt

Wackay at 1750 hrs on

18/11/44 took place

within 20 yds of the place

under I ~~found~~ found the case
I did not ~~know~~ it to 388
him. I did not think
of it.

Actually I was coming in
when I saw him. I told
him I was going out. I
was going out again. I
only came back for my
belt and then I
I changed my mind about
going out. I thought I
would have a bath &
then was a bath & a
2/6th Garden sleep in the
bunk above me. I do not
know if he was up or
not when I got up.

F 51762 You & G. Bay field. I don't
Red Lion Bay R. swan state
I was near the Accused and
on 18/11/44. I was under the
Garbage Bin to

I was loaded and
ready to move up from
the kitchen when the Accused
brought up a box of
empty cans and asked me
to wait for it. I emptied
the box of cans and
noticed one was full. I
passed it back to the
Accused and I saw him

Lay it down on a concrete
slab. This is the first time
I have found a full tin
among the empty cans.
I have never been accused
of stealing a tin.

X X P.

I cannot remember how long
I spoke to the Accused; I
do remember speaking to him

Not R. X P.

A. by Gant

Had I not noticed the
tin was full; it would
have gone to the rubbish
dump.

11-105429 L/6th Garden W. J. L. L. L.
Lawn Bay R. L. L. L. L. L. L. L. L. L.
I recognize the Accused. I
speak in the lunch room
here.

On 10/11/44 I saw the
Accused at 2300 hrs when
Gay & Mackay came in to
turn the lights out. The
Accused & I went to bed
just afterward.

I got up around
0720 hrs on 10/11/44; the
Accused was still in bed.
I had breakfast, came
back and Accused was

26
888
I asked
him at his own
in the kitchen. He addressed
"Yes." I said "Point it
time again unless you think
he got up and I did not
see him again in the
kitchen until he was put
in arrest.

X.X.2

Accused got up about 6:00 am
I of accused says he was
in combats feeling hot that
he must be in trouble, as
neither of us have any
watches. I looked at that
time

I saw Sgt Hocking pick
up the case.

I washed the accused.
I was in the room when
the search party arrived.

Not R.X.D.

6 by bank

I have a watch now.
I brought it subsequently
to the court. I have
described

52567 Sgt & Yawns. He is a soldier who
has been in the service since
I got my first assignment. He is from
his bed in the room
mine

I saw the accused
on 18/11/44 in the morning
between 1800 hrs & 2000 hrs.
On 19/11/44 the
accused was not in bed
when I got up at approx
0500 hours.

The accused is a
good soldier. I have
no reason to doubt his
loyalty in the barracks
room & control. The men
are always busy there
but.

I have no reason to
suspect accused.

P.S.D.

On 19/11/44 accused
was not in the room at 0500 hrs.
I found the can of
sawdust in accused's bed
it was under the pillow
at about 0500 hrs. I had
not left the room at all

NOT R.Y.D.

The accused, sworn, states:-

A. W. ...
...

I am P-39699, Sapper Turpin, G.L. I worked in the kitchen at No. 1 Canadian Road Construction Company, Royal Canadian Engineers, from 12 Nov.44 until placed under arrest on 19 Nov.44. On 18 Nov.44, at about 0900 hours, I was given a can of sausage similar to the one here marked Exhibit "A" by Sapper Mayfield who found in the garbage of his dumpster. I took it, examined it for blow holes and laid it on a slab of cement. I forgot about it and never seen it again until it was shown me on my bed at about 0940 hours 19 Nov.44.

Y.S. ...

.....
P-39699 Sapper Turpin, G.L. of No. 1
Canadian Road Construction Coy., RCE.

Rules of Procedure 4 (C) (D) (E) and (F) have been complied with. I certify that the foregoing Summary of Evidence consisting of 5 pages was taken down by me in writing in the presence and hearing of the accused this 21 day of November 1944.

W. ...
.....
Signature of Officer taking Summary.

No. F-39699

Name TURPIN G.L.

Sqn. Battery or Company

Corps R.C.E.

Date of enlistment

20 Sep 39

GC Badges 1

Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&M/136 (343B)

Company Conduct Sheet Date of last entry in

N/A

No and date of last drink

N/A

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

TWS Stuart Major RCE

Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original destroyed 18 Feb 42	No Entries	2 years service (CARO 2084)			
Field	8 Aug 44			Volunteer Blood Donor	G.W. Peck Lt				
				Awarded one good conduct badge D.O. #36 d/20-6-43 On completion of two years service without Regimental entries, w.e.f. 18 Feb 42.					
				Awarded CVM & Clasp wef 15 Jan 44 D.O. 4 d/20 Jan 44.					
				Certified that this is a true and accurate copy of the original MFM 6 held on this Unit's files.					
				<p style="text-align: right;"> <i>C. Fraser</i> (C. Fraser) Major RCE Officer Commanding 1 Cdn Rd Constr Coy RCE </p>					

(PTO)

J. W. ...
V. ...
1944

CLOSING ADDRESS BY THE DEFENCE
IN THE CASE OF
Spr. TURPIN G.L.

1 Cdn Road Constr Coy. R.C.E.

Gentlemen, the law says that to convict the court must be satisfied beyond all reasonable doubt. Are you satisfied beyond all reasonable doubt? You are not. Did anyone actually see Spr. Turpin take this can? Did anyone actually find this can in his possession? Did anyone catch him as a thief? Because somebody tosses a can or places a can on your bed, is it necessarily yours? Has anyone shown that the accused is not to be trusted, that he does not speak the truth, that he is not honest? How could you possibly convict a man with a record like the accused has to his credit?

The accused has five years service from Canada without a crime. He joined one of Canada's finest fighting Regiments the West Nova Scotias on Sep 8 1939. That is a long time ago. He was overseas Xmas of that year 1939. He served faithfully without a crime as Driver, D.R. and Rifleman. During that time he married in England. In Feb 1943 the Bn Medical Officer advised Spr. Turpin to transfer to a less active corps due to an old knee injury received from D.R'ing. He joined No. 3 Cdn Pioneer Coy and was attached out to a Cdn Battle School. He was promoted to L/Cpl. 1/c Cookhouse. 9 months later on disbanding of the school he was sent to 7 Cdn Const Coy. Here he served for a short time and due to a change of establishment a number of the unit were sent to 1 C.E.R.U. He was one. I remember this myself because I noticed the influx to C.E.R.U. of Const Coy. personnel. At C.E.R.U. he was employed as L/Cpl. on the Bridging Platoon. All this time, nearly five years, he is holding places of confidence and trust. In Aug 44 he reverted to Spr. to be available as reinforcement for France. He came over immediately and was posted to No. 1 Road Constr Coy.

In No. 1 Road Constr Coy. he was well liked and made friends. His witnesses have shown as N.C.Os that he was trusted and they held no doubt as to his honesty. On Nov 18, 1 Ech, 21 A Gp wished to send people back to Canada ^{who had} with five years service. Spr. Turpin was the only man in 1 Cdn Road Constr Coy. with this record and to top it off he had an absolutely clean crime sheet for five long years. Five years of

good and faithful service to His Majesty's Forces. Because of this accusation he lost the opportunity of being home with his family for Xmas - the sixth one away, think of it Gentlemen, because of this accusation.

Mr. President, you cannot find this man guilty. How can you honestly say to yourself this man is guilty? He gives five good years and then all of a sudden turns out to be a dishonest, untrustworthy and most despicable sneak salvage thief. This act of petty thievery would be one of a kleptomaniac, a pickpocket or habitual sneak thief. The accused is not one of these. Think of what it would mean to him to be found guilty, to his rehabilitation, his entry to civil life as a thief.

Spr. Turpin is not a thief, Gentlemen, he did not steal. Nothing has been shown which can prove this beyond a shadow of a doubt and if there is this doubt of only the slightest ^{big red} you must clear his name and call him innocent. You cannot balance his long record of good service against this ^{about 171116} crime. Let his be clean and allow him his just reward of a trip back home to Canada for which he has served so long, faithfully and honestly.

A. H. H. G. Capt. R. C. E.

SUMMARY OF EVIDENCE

In the case of F-39699, Sapper Turpin, G.L. of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, Canadian Army Overseas.

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

FIRST WITNESS

L-25810 Sergeant MacKay, J. of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, being duly sworn, states:-

" I am L-25810, Sergeant MacKay, J. I was acting in the capacity of Company Sergeant-Major for No. 1 Canadian Road Construction Company, on 19 November 1944 I was aware that there was some thieving of clothing and rations. At about 1300 hours I found the accused by the side gate where the garbage is kept. The troops are not permitted to use this gate. I asked him to explain his presence and he said he was going out. I told him he couldn't use this gate so he walked away, asking ~~suppose~~ what time was the bath parade. My reply was to the effect that there were no bath parades through this gate. I called the Guard Corporals, Lance-Corporal Connor, J. and Lance-Corporal Turner, G. and ordered them to make a search of the corner where the garbage was kept. Lance-Corporal Connor found a 2 pound can of sausage meat behind a cement slab. I took this can to Major C. Fraser, Officer Commanding No. 1 Canadian Road Construction Company. He marked this can by scratching on it initials, C.F. I now recognize this can as Exhibit "A". I put the can back behind the cement block and instructed Lance-Corporal Turner to so place a guard as to discover whomsoever may remove it. Next morning at 0800 hours Lance-Corporal Turner informed me that the can was still there when he removed the guard at 0600 hours. Upon examination, Lance-Corporal Turner and myself found the can to be missing. Corporal Duley, R.C.A.C. in charge of the kitchen, Lance-Corporal Turner and myself went to Sapper Turpin's billets and there I gave orders to Acting Sergeant Young and Lance-Corporal Turner to search Sapper Turpin's belongings in the presence of Corporal Duley and myself. A 2 pound can of sausage meat, which I identify as Exhibit "A" was found under the palliasse of Sapper Turpin's bed. I ordered Lance-Corporal Turner to put the accused under arrest and I placed the can in the Officer Commanding's office for safekeeping.

Cross examined by the accused:-

- Q. Who actually took the can off of my bed ?
- A. I believe it was either Sergeant Young or Lance-Corporal Turner.

John MacKay
.....
L-25810, Sergeant MacKay, J. of No. 1
Canadian Road Construction Coy., RCE.

SECOND WITNESS

D-156047, Lance-Corporal Connor, J. of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, being duly sworn, states:-

" I am D-156047, Lance-Corporal Connor, J. On 18 Nov.44. I was Corporal of the Guard and in that capacity at approximately 1800 hours, I was ordered by Sergeant Mackay to make a search, using my flashlight, of the garbage area. Behind a cement slab and upon the ground I found a can of sausage meat, similar to can marked Exhibit "A". Lance-Corporal Turner aided me in the search. I, as ordered by Sergeant Mackay replaced the can where I found it."

The accused declines to question the witness.

J. Connor
.....
D-156047, Lance-Corporal Connor, J. of
No. 1 Canadian Road Construction Coy.,
RCE.

THIRD WITNESS

B-66597, Lance-Corporal Turner, G. of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, being duly sworn, states:-

" I am B-66597, Lance-Corporal Turner, G. On 18 Nov.44. I was Corporal of the Guard. At 1800 hours Sergeant Mackay ordered me to search with my flashlight the garbage corner at No. 3 Post. I was accompanied by Lance-Corporal Connor and Sergeant Mackay. We found a 2 pound tin of sausage meat on the ground behind a slab of concrete which was leaning against the wall which can is similar to the can here marked Exhibit "A". Sergeant Mackay removed the can. As a matter of routine I placed the sentry on No. 3 Post and instructed him to permit no one near the garbage or the gate. This is a twelve hour post and the sentry was removed at 0600 hours, 19 Nov.44. At approximately 0815 hours 19 Nov.44. Sergeant Mackay and I looked for the can behind the slab and found it missing. I was ordered by Sergeant Mackay to search the effects of the accused, aided by Sergeant Young. Sergeant Young found a 2 pound can of sausage meat similar to the can marked here as Exhibit "A" under a blanket on the bed of the accused. Sergeant Mackay ordered me to place the accused under arrest at 0845 hours 19 Nov.44.

Cross examined by the accused:-

- Q. Did you see Sergeant Mackay replace can of sausage behind the slab after it was found by Lance-Corporal Connor ?
- A. No.
- Q. Why did you think the can was there ?
- A. I was told by Sergeant Mackay that the can was replaced.

G. Turner
.....
B-66597, Lance-Corporal Turner, G.
of No. 1 Canadian Road Construction Coy. RCE

FOURTH WITNESS

B-25651, Acting Sergeant Young, M.E. of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, being duly sworn, states:-

" I am B-25651, Acting Sergeant Young, M.E. At approximately 0830 hours 19 Nov.44. Sergeant MacKay and Corporal Duley came into our billets and ordered me to search the effects of the accused. Under his palliase I found a 2 pound tin of sausage meat which was picked up and examined by Sergeant MacKay, who showed me the scratched initials C.F. on the lid. I recognize the can as the one here marked Exhibit "A".

The accused declines to question the witness.

.....
B-25651-Acting Sergeant Young, M.E. of
No. 1 Canadian Road Construction Coy., RCE.

FIFTH WITNESS

M-3043, Corporal Duley, H.A. Royal Canadian Army Service Corps on the strength of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, being duly sworn states:-

" I am M-3043, Corporal Duley, H.A. of the Royal Canadian Army Service Corps, and in charge of the kitchen of No. 1 Canadian Road Construction Company, Royal Canadian Engineers. In regard to Exhibit "A" here, it is a can of Rival Pork Link sausage. The last of these sausages in our possession were cooked in hot water Friday night for use at Saturday morning's breakfast. ~~at~~, 18 Nov.44. The can marked Exhibit "A" has never been in hot water. At approximately 0830 hours 19 Nov.44. I was with Sergeant MacKay, Sgt. Young and Corporal of the Guard when a can of sausage was found in the bed of the accused. Sergeant MacKay showed me the scratched initials C.F. on the lid of the can and I now identify it as Exhibit "A" here. Sapper Turpin had been employed in the kitchen since 12 Nov. 44, until the time of his arrest on the morning of 19 Nov.44. When the accused was shown the tin of sausages under his bed in my presence he made a statement to the effect he had found the can in the Dumpster used for hauling garbage, Saturday afternoon, ~~at~~, 19 Nov.44.

The accused declines to question the witness.

H. A. Duley
.....
M-3043 Corporal Duley, H.A. of No. 1
Canadian Road Construction Coy., RCE.

SIXTH WITNESS

Major C. Fraser, Officer Commanding, No. 1 Canadian Road Construction Company, Royal Canadian Engineers an Officer of the Canadian Army Overseas, having been duly sworn, States:-

" I am Major C. Fraser, Officer Commanding No. 1 Canadian Road Construction Company, Royal Canadian Engineers. On 18th of Nov. at approximately 1830 hours, Sergeant MacKay brought me a can labelled "Sausage". I marked this can with my initials and I now recognize as the can marked Exhibit "A".

The accused declines to question the witness.

C. Fraser

.....
Major C. Fraser of No. 1 Canadian Road Construction Company, R.C.E.

FIRST WITNESS FOR THE DEFENCE.

F-51762, Sapper Mayfield, E.G. of No. 1 Canadian Road Construction Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, being duly sworn states:-

" I am F-51762 Sapper Mayfield, E.G. On the morning of 18 Nov.44. I was driver in charge of the Garbage Dumpster I was loaded and ready to move off when the accused, who was bringing up a box of empty cans shouted to me to wait. He passed the box up to me and I emptied it into the dumpster. A can rolled out and struck my foot. I realized it was full and picked it up and passed it to the accused, who examined it and laid it on top of a slab of concrete which was leaning against the wall. It was a can similar to Exhibit "A" here but was covered with dirt."

The accused declines to question the witness.

F. Mayfield

.....
F-51762 Sapper Mayfield, E.G. of No. 1 Canadian Road Construction Coy., RCE.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:-

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

W. 83.

Pte. TURPIN, G. W.

1222
Correspondence to be PINNED here.

Major J.A.A.G. Vallée

W-83

Army Form A.3.

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

PROCEEDINGS.

A.

On Active Service, this 16 day of November 1942.

Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

* Omit if not applicable

~~XXXXXX~~
~~XXXXXX~~

Proceedings Reviewed

J.C. Campbell
5-9-42

03

"R"
J.A.A.G. Vallée
President

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

President.

Rank.	Name.	Regiment.
Major	J.A.A.G. Vallée	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	M.S. Sutherland	R.C.A.P.C.
Lieut	G. Payette	R 22e R
Lieut	C.L. Dow	Carl't & York R

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

* Signed *J.A.A.G. Vallée*
Commanding 3 Cdn Inf Bde
Convening Officer.

2
SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F 39700 Pte Gordon William Turpin West N.S.R.	1st charge Sec 18 (4) A.A.	Not Guilty	Guilty	Confirmed. 21 November 1942 Brigadier, Comd. 3 Cdn. Inf. Bde.
	2nd charge Sec 24 (1) A.A.	Not Guilty	Not Guilty. To Ludago 90 days detention Gasbaldie major president 19 Nov 1942	

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

(Signed) *K. J. L. L. L.* Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer (c)

(Signed) *No*
Gasbaldie major
President.

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

3

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

I certify that the above Court assembled on the 19th day of November and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of
President as to
proceedings.

I also certify that :-

1. The members of the Court
2. The witnesses

* (3. The interpreter) *W*

* (4. The officers under instruction) *W*
were duly sworn.

* Omit if not applicable.

Signed this 19th day of November 1942

Gasbaldie major
President of the Court Martial.

* See footnote
(b) on page 702
M.M.L. 1929

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

C.
Certificate in
case of death
sentences.

Signed this _____ day of _____ 19____

President of the Court Martial.

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

D.
Confirmation

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

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

Signed this 21st day of November 1942

K. J. L. L. L. Brigadier
Confirming Officer, Commanding 3 Cdn Inf

Promulgated and extracts taken in the case of # F 39700 Turpin, W.

(a) (Dated) 23 Nov 42 (Signed) *J. P. L. L. L.* Adjt.,
West N.S.R.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

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

CHARGE SHEET

*Gastoullie Major
President*

F29700 Pte Gordon William TURPIN, West N.S.R., a soldier of the Canadian Army Overseas, stationed in the Field, is charged with:- WHEN ON ACTIVE SERVICE,

1st CHARGE
Sec 18 (4)
Army Act.

STEALING GOODS, THE PROPERTY OF THE CANADIAN GOVERNMENT,

in that he,

at Lewtelle, South Coast Road, Telescombe Cliffs on 28 Sep 42 stole two blankets the property of the Canadian Government.

2nd CHARGE
Sec 24 (1)
Army Act

MAKING AWAY WITH BY SELLING, HIS REGIMENTAL NECESSARIES,

in that he,

at Jewington House, Phyllis Ave. Peasehaven, did sell for 10/, two blankets, regimental necessities on issue to him.

In the Field
14 Nov 42.

J. K. Hobb, Major
(J. K. Hobb), Major,
A/Comd. West N.S.R.

To be tried by Field General Court Martial

17 Nov 42

Charles Foulkes
(C. Foulkes), Brigadier
Commanding 3 Cdn Inf Bde

WEST NOVA SCOTIA DISTRICT

This is to certify that E. 39700 Pls Turpin G.W.
of the West NSR, Can Army (Overseas), has this day been examined by
me, and found medically fit ~~to~~ to undergo trial by Court Martial.

Date November 19th 1941

Gastoudallie Major
President.

A. L. Walker
Medical Officer Capt
West NSR

1

Proceedings of a Field General Court Martial
held in the Field on the 19th day of November 1942
by order of Brigadier Charles Foulkes Commanding
3 Edu Inf Bde dated 16th day of
November 1942.

President.

Major J.A.A.G. Vallie R. 22nd R.

Members.

Capt M.S. Sutherland R.C.A.P.C.

Lieut G. Payette R. 22nd R.

Trial of F. 39700 Pte Gordon William
Turpin West N.S.R.

The order convening the Court, the charge
sheet and the summary of Evidence, see
Laid before the Court.

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

The accused is brought before the Court

Prosecutor Capt. E. L. Fortum West N.S.R.

Defending Officer Major P. H. Stebbins
West N.S.R.

At 1100 hrs the trial commences.

The order convening the Court is read and
is marked R signed by the President
and attached to the Proceedings.

RW

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

Question by Pres. to the Accused.

Do you object to be tried by me as President or by any of the officers whose names you have heard read over

Answer No.

W

The President, members and duly sworn

(Judge) Prosecutor does not want to make opening address.

First witness - F 39776 Sgt. Lupton W. S. of the West Nova Scotia Regiment having been duly sworn states - On

Sunday morning 20 Sept 42 in answer to a complaint from the S.M. of headquarters Coy. I proceeded to that area and interviewed the C. S. M. S. and was informed two Canadian Army Blankets had been stolen during the night. In

consequence of inquiries being made in company with Det. Constable Mueller a watch was kept in a house known as Jernington, Phyllis Ave. Rosebush and in company with the Det. Constable paid a visit to the house where two

Canadian army blankets were handed over to me. The following morning in company with Det. Constable Mueller I saw the accused as a consequence of that interview a charge was laid.

Two - These three blankets which I typed as Canadian army blankets

Two - They were identified by the P. S. M. S. as Canadian army blankets. The blankets were turned over to the P. S. M. S. under in the

in my presence, turned them over to the civil police where they are used as evidence. The blankets are at the S.M. The blankets were turned over to me by the daughter of the house. The blankets were dark grey, one a shade darker than the other. The blankets did not have the Canadian trade mark on them. These blankets were handed to me. I had put no identification marks on them. ~~W~~

Rules of Procedure 83 E has been complied with.
Second Witness - Detective Constable John Miller stationed at Newhaven having been duly sworn states - About 8:45 P.M. on the 29. Sept 42 in company with Sgt. Lupton I kept observation on a house known as Irvington House, Phyllis Ave. (Pleasanton), Peasebarn, we then went to the house where we saw Miss McHale. I told her that I was a police officer and that I was making inquiries regarding some army blankets which I had reason to believe were in the house. From up stairs she fetched two army blankets and then as a result of what she told me Sgt. Lupton and I went outside where he found two blankets and I also found two. On the second of Oct 42 I saw P. 39700 Lupton, N.W. and he made the following statement.

The defence maintains that the caution given by the witness is not sufficient according to M.M.L. Chapter VI 72.

The court has satisfied themselves that the rules stated in M.M.L. Chapter VI para 78 have been observed.

Witness continues - ~~I have been cautioned that I must not make any statement~~ The statement was submitted and marked as Exhibit A and signed by the President.

These by ^{the} defence -

They were ^{the} dark in colour with two black stripes. I cannot say they were army blankets. All blankets were the same. There were no identification marks showing that they belonged to the accused. I did not see the accused in possession of the blankets. I do not know how the blankets got to the house. ~~W~~

I know that another man has been charged for the same offense. ~~the~~ ^{the} Rule of Procedure 83(b) has been emphasized.

Chief Witness - Margaret Ann McLaughlin, Washington, D.C.

English Co. Passengers having been duly sworn shall -
A man named Martin stayed at my home for work with a woman whom he called his wife. He brought a pound up and asked me if I could do such work as cleaning for him. Martin brought up four on the Monday but this was not me. I cannot identify Martin's friend. I am certain that I can identify the accused. ~~My friend that was~~ ~~rescued by his name. I don't know who it was.~~ ~~from the face of his name to speak. I believe that he is the~~ ~~there is~~

Witnesses available -

Blanchard was part of the party the same and my daughter took them to the store. She paid some the same night while was out. Martin brought four blankets in the afternoon. Blanchard was brought to the house on Monday afternoon. Police were on duty and for my statement in road. I had not identified as together. I believe the two blankets on the morning of Monday 27 Sept 42.
The prosecution asked for permission of the court to have the accused speak. She said upon the request. Also I am satisfied that the date I received the blankets was given to the date the police came to my house.
The Rule of Procedure 83(b) has been emphasized with.

The court was adjourned at 1:30 the next morning at 1:45 pm. ~~the~~

Heath witness F 38780 R. 2nd M S Saboyer, C. W. of the West Nova Scotia Regt. having been duly sworn states - I have two blankets that were turned over to me by Sgt Lupton. I can identify these blankets as Canadian B. S. blankets.

Defense Questions - I received these blankets from Sgt Lupton at Newhaven Police station. I do not know to whom these blankets were issued. I don't know where they came from they were given to me for custody. The witness identifies these blankets. It is a Can. blanket because it has a black stripe in it. The English army have ~~the~~ blankets like these at present. I don't know if there are any of these blankets on the market.

The Rule of Procedure 83 B. has been complied with.

The prosecution rests the case.

The accused does not want to give evidence.
R.P. 40 has been complied with.

The defence makes a motion to dismiss the case as the prosecution has failed to prove the charges ^{laid} against the accused. R.P. 40. note 1

The court adjourned to consider the motion made by the defence.

The court has refused the motion submitted by the defence.

B.

Chief witness for the defence

F 29563 Cpl Mac Donald, D.V. of the West Nova Scotia Regiment after being duly sworn states - I am acting C 2nd M S. for my company. It is my duty to check the equipment ~~of~~ of my Coy.

There is a bit inspection each week. No the accused has never been short of any blankets issued to him. He has had ~~three~~ blankets on charge to him at that season of the year. His equipment was always complete.

R.P. 73 (b) has been complied with.

The accused does not want to make any statement.

The Prosecution — The prosecutor says that he has ~~W. Mountain~~ failed to prove the second charge.

Defence — The defence agrees that there isn't sufficient evidence on the second charge —

The court closes for finding — The court finds that the accused is guilty on the first charge and not guilty on the second charge.

The defence does not want to bring any witnesses for character.

Prosecutor produces a certified copy of M.F.M. 6 and short statement as to past records of service of the accused, marked exhibit B and C respectively.

Defence says — This man is 42 years old. Has been in this country since Jan 1940 and has been employed as a driver during that time and in that capacity has served very satisfactorily and in view of the circumstances of the case which I have mentioned before I think to punish him more than mildly would be doing an injustice to him. Considering all the circumstances of his past record, is not bad and the

fact that he retained his responsible position for three years is certainly an indication that his work was satisfactory and that he is generally responsible.

Court will close for sentence.

To undergo 90 days detention.

W



COPY. =====

Best File No.
Crime Report No.
No. in Summons Book.

"A"

Adja
54-1

EAST SUSSEX CONSTABULARY.

Newhaven. Station Lewes. Division

Statement taken at :-

Place "Lestelle", South Coast Road, Telscombe Cliffs. Time 3.30p m. Date 2nd October, 1942.

Name Gordon Wilmur TURPIN. Pte.No.F.39700.
Address H.Q. Coy., West Nova Scotia Regt. Telscombe Cliffs.
Occupation Age years

Statement :- " I have been cautioned that I need not make any statement unless I wish to do so and that I am to be reported for stealing blankets the property of the Canadian Army.

About a fortnight ago I went with Pte.MARTIN to a house in Peacchaven. I do not know the name of the house. I asked the lady if she could do with some blankets, this was at the suggestion of Pte.MARTIN who had stayed at the house. The lady said she could do with some.

On Thursday night last, the 24th September, 1942 I went to the house to see if Pte.MARTIN was there but he was not there.

One day I noticed some Army blankets in a loft at "Lestelle", South Coast Road, Telscombe Cliffs where I am billeted. These blankets were there some few days after. I thought no one seemed to be worrying about them so I decided to try and sell them. One night, I cannot say if it was Friday night or Monday night I took the blankets to the house I had visited with Pte.MARTIN. I saw the stout lady. I cannot remember if anything was said. I gave her the blankets and received some money. I cannot say for certain if I took two blankets and received 10/Od. or if I took 3 blankets and received 15/Od.

I have not sold anything else at the house. I did not steal the blankets I found them in the loft. "

(Sgd.) G.W.TURPIN.

The above statement was made to me ~~by Pte. Gordon Wilmur~~ By Pte. Gordon Wilmur TURPIN.

and recorded by me at the same time.

John Buller Police Det. Con. No.

SUMMARY OF EVIDENCE in the case of F39700 Pte Gordon Willimur TURPIN, West N.S.R., a soldier of the Canadian Army Overseas, stationed in the Field.

By Order of Major J.A. Hebb, A/Comd. West N.S.R.

This Evidence is taken on Oath.

First Witness for the Prosecution

F39776 Sgt Lupton, W.B., West N.S.R., having been duly sworn states:-

I am and was at all times material hereto F39776 Sgt Lupton W.B., West N.S.R., Provost Sgt. On Tuesday Morning 29 Sep 42 in answer to a complaint from the C.Q.M.S. of HQ Coy I proceeded to that Coy and was informed that two blankets had been stolen the previous night. Pte Rees was one of the parties who had had his blankets stolen. Enquiries led me to believe the accused Pte Turpin knew something about the matter. Subsequently with the aid of Pte Rees a plan was formed whereby the disposal point of the blankets could be found. With the assistance of Det. Con. Miller a watch was kept on a house known as "Jevington" Phyllis Ave. Peacehaven occupied by a Mrs Whales, with the result that at approx 2030 hrs we went to the house and enquired for the missing blankets. As a result two blankets were handed over to us, which had been sold there the previous night. The blankets which had been marked as a means of identification were found outside the house by the Det Con and myself having been thrown out the window. Mrs Whales was not present at that time but the following morning in company with Det Con Miller we interviewed her at her house at which time she made a statement which was taken down in writing and will be submitted as evidence.

Cross-examined by the accused as follows:

Q. What gave you the idea I had anything to do with those two blankets that night?

A. I refuse to answer that question on grounds of investigation.

The accused declines to further cross-examine the witness.

Second Witness for the Prosecution

F34748 Pte Rees, V.A., West N.S.R., having been duly sworn states:-

Over a month ago I came in the billets about 2030 hrs. I looked on my bed. My blankets were there. About 2130 hrs I came back in, one of my blankets were gone. Shortly after Pte Roy came in and said one of his blankets was missing. I reported it to C.Q.M.S. Hopper the next morning. To find out where the blankets had gone C.Q.M.S. Hopper said he would give me 4 marked blankets. The same morning I asked Pte Turpin if he knew where he could sell a couple of blankets. He said, "No, I don't". Later on I asked Pte Martin the same question. He said he would sell them at a certain house. So I told him I had four and that they would be outside the house about 1600 hrs. I received the four marked blankets from the C.Q.M.S. I placed them outside the billets. When I came in about 2030 hrs the four marked blankets were gone.

The accused declines to cross-examine this witness. *NA All*

Third Witness for the Prosecution

John Miller, Detective Constable, stationed at Newhaven, having been duly sworn states:-

At about 2030 hrs on 29 Sep 42 in company with Sgt Lupton

Third Witness for the Prosecution, cont'd.

I kept observation on a house called "Jevington" House, Phyllis Ave. Peacehaven. About 2030 hrs I went to the house, when I saw Miss Whales, daughter of Mrs Whales the occupier. I told her I was a police officer and was making some enquiries about army blankets brought to the house. She went upstairs and brought down two blankets. Sgt Lupton and I searched outside the house and he found 2 more blankets. I also found 2. At 0930 hrs the next day I saw Mrs Whales, told her I was a police officer, explained the nature of my visit and she made a voluntary statement which I recorded in my pocket book.

At 1530 hrs on the 2 Oct 42 I saw F39700 Pte Turpin, G.W. and he made this statement: "I have been cautioned that I ~~wxxx~~ need not make any statement unless I wish to do so and that I am to be reported for stealing blankets, the property of the Cdn Army. About a fortnight ago I went with Pte Martin to a house in Peacehaven. I do not know the name of the house. I asked the lady there if she could do with some blankets. This was at the suggestion of Pte Martin who had stayed at the house. The lady said she could do with some. On Thursday night last 24 Sep I went to the house to see if Pte Martin was there but he was not there. One day I noticed some army blankets in a loft at "Lestalle" South Coast Rd. Telescombe Cliffs where I am billeted. These blankets were there some few days after. I thought no one seemed to be worrying about them so I decided to try to sell them. One night I cannot say if it was Friday or Monday night I took the blankets to the house which I had visited with Pte Martin. I saw the stout lady. I cannot remember if anything was said. I gave her the blankets and received some money. I cannot say ~~xxxxxxx~~ for certain if I took 2 blankets and received 10/ or if I took 3 blankets and received 15/. I have not sold anything else at ~~xxxxxxx~~ the house. I did not steal the blankets. I found them in the loft".

Cross-examined by the accused as follows:-

Q. How did you happen to keep that house under observation?

A. My information came from Sgt Lupton.

The accused declines to further cross-examine the witness. *John Miller, 20.10.42*

Fourth Witness for the Prosecution.

Mrs Whales, of Jevington House, Phyllis Ave., Peacehaven, having been duly sworn states:-

"I am living at Jevington House, Phyllis Ave Peacehaven. Around the beginning of October, Det Con Miller about 0900 hrs came to my house and told me he was asking enquiries about some army blankets which he said had been delivered to my house. Pte Martin who had been staying at my house weekends, asked me on 2 Oct I think if I could do with some blankets. I said, "Yes", I could do with some. A man came up to the house the next night and said he was Martin's friend. He had two blankets with him. I gave him 10/ for the blankets. The next day Martin came between 1300 and 1400 hrs and asked if I could do with four blankets. He said he'd bring them up at 1600 hrs. that day. I told him I would be out but would leave the f he asked for with my daughter. I gave ~~nix~~ my daughter the f to give him and she later told me that she had given Martin the money.

The accused declines to cross-examine this witness. *John Miller, 20.10.42*

cc

Fifth Witness for the Prosecution

F39780 R.Q.M.S. Seaboyer, C.W., West N.S.R., having been duly sworn states:-

The six blankets, the two marked Exhibit "A" and the four marked Exhibit "B" are Canadian G.S. Blankets. I can identify the four blankets marked Exhibit "B" as the blankets delivered to Sgt Lupton on the 29th of September.

The accused declines to cross-examine the Witness.

C.W. Seaboyer

After being duly cautioned in accordance with R.P.4 (E), the accused reserves his defence.

Certified that R.P. 4 (C) (D) (E) (F) & (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 12th day of November 1942.

[Signature]

C. Hutchins, Lieut.
(C. Hutchins), Lieut.,
Officer taking Summary of Evidence.

LIST OF WITNESSES in the case of F39700 Pte Turpin, G.W., West N.S.R.

PROSECUTION: - 1. F39776 Sgt Lupton, W.B., West N.S.R.
2. F34748 Pte Rees, V.A., West N.S.R.
3. Detective Constable Miller, Newhaven Police.
4. Mrs Whales, Jernington House, Myllis Ave Peasehaven.
5. F39780 RQMS Seaboyer, G.W., West N.S.R.

DEFENCE: - NIL.

LIST OF EXHIBITS: - 1. Exhibit "A", two blankets (unmarked)
2. Exhibit "B", four marked blankets.

Statement by the accused as to a Defending Officer.

If I am to be tried by Court Martial on Charges now pending against me, I wish to have Major P. H. Stebbins to act in my behalf.

Date 14-11-42.....

S. W. Turpin.....
Signature of accused.

This is to certify that I have been given free of charge, a copy of the Summary of Evidence, Charge sheet, documents, etc., relative to my trial by F.C.C.M.

Date 14-11-42.....

S. W. Turpin.....
Signature of accused.

Law

No. 30704

TUPPIN, G. W. Sqn., Battery,

Corps W. 11. 5 Coy.

Date of enlistment } 12. 9. 39

G.C. Badges

Service or Proficiency Pay

M.F.M. 6
A.F.B. 122
17341-7-41 (1215-29)
H.Q. 1973-35-1032

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc.

Character

Efficient
Warrant Officer
1st Lt
2nd Lt
3rd Lt
4th Lt
5th Lt
6th Lt
7th Lt
8th Lt
9th Lt
10th Lt
11th Lt
12th Lt
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100th Lt

Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Woodstock 29 Jan 40	Pte		W.O.A.S. - drunk from 22.30 hrs to 24 Jan 40 to 11.30 hrs 30 Jan 40 (7 hrs absent)	Sgt Small Petrie	Forfeits 1 day pay Under S.A.S. (Class) No (a) + 2 days Under 24 (a) (2) (b)		Capt Swan	
Bathham 14 Oct 40	Pte		Self - drunk from 22.00 hrs to 11 Oct 40 to 2.00 hrs 14 Oct 40	Sgt Connors	Deprived of 1 day pay, forfeits 1 day pay	17 Oct 40	Capt Swan	
Bathham 5 Jan 41	Pte	①	Drunkenness	Sgt Connors Sgt 2 Camp well	10 days extra pay	1 Feb 41	Lt G. G. Copley	
" 8 Jan 41	Pte		Failing to appear on guard - passing another soldier to blank his guard	Cpl Grant	10 days pay forfeited extra guard S.A.S. 149 (1) (a)	1 Feb 41	Lt G. G. Copley	
Beth 30 Oct 41	Pte		W.O.A.S. failing to appear at the place of parade appointed by his superior in that he after being warned for frequent failure to appear for duty and had to be replaced by another man. - Sec 15 (2) A.H.	Lt Col Jones Lt Col Milner	3 extra parades for 1 day pay S.A.S. 143 (a)	3 Nov 41	Major M. G. Bennett	

Place	Date of offense	Rank	Character of delinquency	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order discharging with trial	By whom awarded	Remarks
Tulch	13.11.41	Pte	②	U.S. A.S. Armenticos See 19 A.A. 21 Nov 42. Auck from 235 hrs 13.11.41 to 0000 hrs 14.11.42 (a.c. See 17)	Cpl Barry R.M. Kammalany Lundine	6 wks 500	18.11.42	Lt Col. Abbott	
Tulch	29.4.42	Pte		U.S. Conduct to the prejudice of good order - Military discipline - that he did make an unauthorized trip in a U.S. vehicle. See 40 A.A.	R. H. McKean	awarded forfeiture 5 days pay	1 May 42	Major J. H. H. H.	
Tulch	10 Aug 42	Pte		U.S. A.S. Conduct etc. - Improper possession of public property See 40 A.A.	Cpl Lupton Cpl Gorman Cpl Grant Cpl Rogers 48 - R. H. McKean 42	28 days F.P. with 20 days forfeiture	14 Aug 42	Lt Col. Report	

Certified true copy
15 Nov 42
J. R. [Signature]
Cpl [Signature] West A.S.R.

Suspicion

SHORT STATEMENT AS TO PARTICULARS
OF SERVICE OF THE ACCUSED

Exhibit C

*Gastoudallie
major*

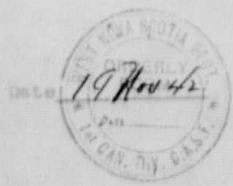
(a) The accused has been in confinement awaiting trial on the present charges for 70 day in Civil Custody and 8 days in military custody, making a total of 8 days; of which 70 days were spent in hospital.

(b) The present age of the accused according to his paybook is 42 y. 11. m.

(c) The date of his attestation specified in his pay book is 12th Sep 1939.

(d) The accused is in possession of, or entitled to:-
(i) No military decoration or military award.
or
(ii) Is in possession of or entitled to the following:

I hereby certify that the foregoing particulars are true extracts from the paybook of the accused.



J. R. Plummer Capt
Adjutant, 1st New Scotia Regiment

55R

O. H. M. S.

Gen. TURPIN, M.C.

M. F. B. 270

FORM 12-61 (REV. 02-70)

MA 1770-20-07

Correspondence to be PINNED here.

55R

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this 22nd day of October, 1942.

A.
Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C. 1 Cdn Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~AND WHEREAS IT IS NOT PRACTICABLE TO DELAY THE TRIAL OF THESE OFFENCES BY AN ORDINARY GENERAL COURT MARIAL.~~

Appears proper procedure.
W. B. Bate case Judge Advocate.

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

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

* Omit if not applicable.

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

for the following reasons, namely:—

Judge - Advocate

Capt. W.B. Bate
A.D.J.A. F.C. 1 Cdn Corps

(67)

PROCEEDINGS REVIEWED

M. V. McQueen Capt.
24 Nov 42

President.		
Rank.	Name.	Regiment.
Major	P.H. Barre	R.M.R. (W.G.)
Members.		
Rank.	Name.	Regiment.
Captain	A.F. Hunter	1 Cdn Corps Fd Pk Coy R.C.E.
Lieutenant	A.C. BAGG	1 Cdn C.T. Sup Coy R.C.A.S.C

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

*Signed *M.V. McQueen*
(M.V. McQueen) Colonel
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer.

2

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-7362 Gunner Turpin, Mitchell Charles 15 Bty., 7 Cdn., Anti-Tank Regiment R.C.A.	<u>1st Charge</u> Sec 41 A.A.	Guilty	Guilty	
	<u>2nd Charge</u> Sec 18 (4) A.A.	Guilty	Guilty	
	<u>3rd Charge</u> Sec 18 (4) A.A.	Guilty	Guilty	
	<u>4th Charge</u> Sec 40 A.A.	Not Guilty	Guilty	Confirmed W.S.
				to undergo detention for 7 months 24 Oct 42 A.H. Barr Major Adjutant W.B. Harte Esq Judge Advocate

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

(Signed) M. V. McQueen (Signed) A.H. Barr
(M. V. McQueen) Colonel
Commanding R.C.A.S.C. 1 Cdn Corps
Confirming Officer (e) W.B. Harte Esq President
Judge Advocate

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

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

3

I certify that the above Court assembled on the day of 24th Oct 42 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of President as to proceedings.

I also certify that :-

- The members of the Court
- The witnesses
- * (3) The interpreter Judge Advocate - A.H.B.
- * (4) The officers under instruction A.H.B.

were duly sworn.

Signed this 24th day of Oct 1942.

W.B. Harte Esq.
Judge Advocate
A.H. Barr
President of the Court Martial.

I certify that the terms of *A.C.I. 579 of 1918 have been complied with.

C.
Certificate in case of death sentences.

Signed this 24th day of Oct 1942.

A.H.B.
President of the Court Martial.

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

D.
Confirmation.

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

Signed this 26th day of October 1942.

M. V. McQueen
Col.
Confirming Officer.

Promulgated and extracts taken in the case of G7362 Gnr. Turpin, M.C., 7 Ath Regt RCA

(a) (Dated) 27 Oct. 42 (Signed) L.A. Devine Lt.-Col.

Promulgated and extracts taken in the case of (L. A. Devine) Comd 7 Cdn A.T. Regt. R.C.A.

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of _____

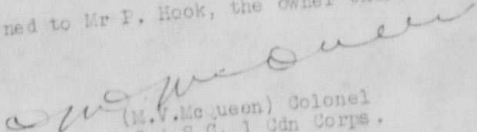
(Dated) _____ (Signed) _____

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

FIELD GENERAL COURT-MARTIAL

Q-7562 Gnr M.C. Turpin,
† Cdn A/Tk Regt, R.C.A.

Pursuant to Army Act Section 75 I hereby order that
the electric razor, exhibit "A" in the marginally noted
proceedings, be returned to Mr P. Hook, the owner thereof.


(M.V. McQueen) Colonel
Comd R.C.A.S.C. 1 Cdn Corps.

Signed in the Field,
this 26th day of October, 1942.

FIELD GENERAL COURT-MARTIAL

G-7562 Gnr M.C. Turpin
7 Cdn A/Tk Regt, R.C.A.

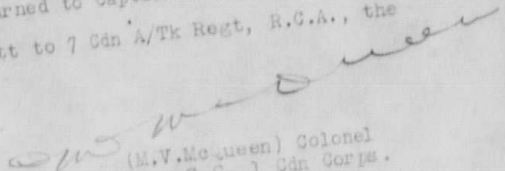
Pursuant to Army Act Section 75 I hereby order
that the camera, exhibit "B" in the above noted proceedings,
be returned to Lieut A.R. Moore, 7 Cdn A/Tk Regt, R.C.A.,
the owner thereof.

M.V. Moqueen
(M.V. Moqueen) Colonel
Comd R.C.A.S.C. 1 Cdn Corps.

Signed in the Field,
this 14th day of October, 1942.

FIELD GENERAL COURT-MARTIAL
G-7362 Cdr M.C. Turpin
7 Cdn A/Tk Regt, R.C.A.

Pursuant to Army Act Section 75 I hereby order
that the straight razor, exhibit "C" in the above noted
proceedings, be returned to Captain R.G. Struthers, 67
L.A.D., R.C.C.C., att to 7 Cdn A/Tk Regt, R.C.A., the
owner thereof.


(M.V. McQueen) Colonel
Comd R.C.A.S.C. 1 Cdn Corps.

Signed in the Field,
this 24 day of October, 1942.

CHARGE SHEET:-

PHBarr
Accident
P. S. Latreche
Regt. Adv.
B2.

The accused No. G-7362 Gnr TURPIN MITCHELL CHARLES, 15 Bty., 7 Cdn., Anti-Tank Regt., R.C.A. a soldier of the Canadian Army (A.F.), is charged with.

FIRST CHARGE:

Sec 41
AA

While on Active Service, committing a civil offence, that is to say, stealing:-

in that he

while in the field, on or about 11 Oct 42, stole an electric razor, the property of a civilian, Mr. P. Hook.

SECOND CHARGE:

Sec 18 (4)
AA

While on Active Service, stealing the property of a person subject to military law:-

in that he

while in the field, on or about 11 Oct 42, stole a camera the property of Lieut A.R. Moore.

THIRD CHARGE:

Sec 18 (4)
AA

While on Active Service, stealing the property of a person subject to military law:-

in that he

while in the field, on or about 11 Oct 42, stole a straight razor, the property of Capt. R.G. Struthers.

FOURTH CHARGE:

Sec 40
AA

While on Active Service, Conduct to the prejudice of good order and Military discipline:-

in that he

while in the field, on or about 11 Oct 42, while batman for Capt. Thorburn, was found going through another Officer's kit other than that of Capt. Thorburn, well knowing that it was improper for him to do so.

Signed in the field this 20 day of October, 1942.

L. S. Devine

Lt. Col.
(L.S. Devine),
comd/7 A.Tk., Regt., R.C.A.

To be tried by Field General Court-Martial.

J. H. C. Clary

CAPTAIN R.D.H.
S. & T. 1 Cdn. Corps
(M.V. McQueen) Colonel,
D.D.S.T.,
1 Cdn Corps.

22 Oct 42

X

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. C. 7362
.....
Am. Tappin, Jr. of 1st Lt. U.S. Army and, in my opinion
he is fit to undergo trial by Court-Martial.

Station Field

M. Bruser Ch. Co.
(M. Bruser) R.C.A.M.C.

Field 24 OCT 42

*A. H. ...
President*

*W. B. Hale Capt.
Judge Advocate.*

**All printed matter and appropriate to the particular Court being held should be struck out and initialed by the President.

****Form of Proceedings for General and District ¹⁹⁴² Courts-Martial.**

Proceedings of a ~~Field~~ ¹⁹⁴² General Court-Martial held ^{in the field} on the 24th day of October 1942 by order of Col. M. V. MacQuinn.

Commanding R. C. A. S. C. 1 Edu. Corp. dated the 22nd day of October 1942. President.

Major P. H. Barre R.M.R. (M.G.)

Members.

Capt. A. F. Hunter 1 Edu Corp 2d Pt Coy R.C.C.

Lieut. A. C. Bagg 1 Edu. C.T. Supt Coy R.C.A.S.C.

M. B. Bate
W. B. Bate
Judge Advocate

Capt. W. B. Bate, A.D.J.A 1 Edu Corp, Judge Advocate.

Trial of* G. 7362 Ser. Mitchell Charles Turpin, 7 Edu. A. 3d. Regt R.C.A.

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

W.B.B. The Court satisfy themselves that ~~is not available~~

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

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

The accused is brought before the Court.

Prosecutor, † Lieut J. D. Hall 7 Edu. A. Sault Regt R.C.A

W.B.B. Counsel for defending officer † Lieut G. C. Harris 7 Edu. A. Sault Regt R.C.A.

At 1005 o'clock the Trial commences.

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

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

Question by the President to the accused.

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

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

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

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

‡ Qualification to be stated.

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

The following officers under instruction are duly sworn

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Charge-Sheet.

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

If the accused has acted in Army or Air Force, the fact should be recorded.

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

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

Guilty.

Answer.

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

Guilty.

Answer.

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

Guilty.

Answer.

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

Guilty.

Answer.

The accused having pleaded Guilty to 1st, 2nd, 3rd charges, the provisions of Rule of Procedure 35 (b) are here complied with. A full

affirmation was made to be correct.

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

C

Proceedings on Plea of Not Guilty.

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

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

Answer. No sir.

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

The prosecutor proceeds to call witnesses.

First witness
for
prosecution.

Lieut. J. D. Doherty, 7 Cav. A. Tante Regt.
R.E.A.

being duly sworn, is examined by the prosecutor.

On Sat 10 Oct 42 I returned to my hut at about 1230 hrs. after lunch. On entering the hut, I found Gen. Turpin, whom I recognize, bending over my opened barrack box. I questioned his presence there. He said that he was looking for Lieut. Harris' kit. Not being in a position to verify Gen. Turpin's statement at that moment I waited until some officers of the 15th Bty, which in the accused's battery, came in & checked with them. We decided that there was no reasonable excuse for the accused being in the hut at all, so I decided to lay a charge. Gen. Turpin, who smelled of liquor, but was not incoherent told me that he had no intention of taking any of my belongings. A check at the time found nothing missing from my kit, and nothing has been missing since. It was necessary for Gen. Turpin to remove a wash basin & laundry from the top of my barrack box & also to unfasten two flaps to raise the lid. The box was plainly labelled in red on top with my name. I knew Gen. Harris was on leave ^{at a camp} at the time. We decided Gen. Turpin had no business being in the hut

2085

1945
1945

at the time. They had been almost just inside the
door east of the hut. I had not seen any part of
these things; but since the suit moved from the
previous camp.

Over examined: The small team and laundry
had to be removed from my barracks for an order
to use the same. The dog was spared. The six
has to be held up when horses. These were
quarantined in the parking part of the hut since
the suit came to Parkville Park.

No re-examination.

By the Judge Advocate: The accused was not
seen by anyone. I understood he was in. Thabin had
been seen talking to another officer when in. Thabin
was on course. My horse for camp to be held.
R. P. 83 (E) completed with.

The following suitmen, with the permission of
the Court and the accused consulting staff
was called.

Second Division for Lt Col S. E. Thabin, 1 Lt A. Thabin
the Division } Recd the morning even early were
is examined by the Division:

When I was on course the suit moved to Parkville
Park. I left instructions with Sgt. Thabin to take my
kit to the rear camp as I had understood when I left
to ensure that the suit was to move. For my return
I found some of my kit was in Sgt. Thabin's kit bag
and some was in the officer's quarters in which
was Sgt. Thabin. It was at the top end of the hut
from Mr. Thabin's kit.

No over-examination. —
R. P. 83 (E) completed with.

1945

The prosecution is closed.

Defence.

R.P. 40(A) ~~complies with~~.

Question to the accused.

Do you apply to give evidence yourself as a witness?

Answer.

Yes sir

Question.

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

Answer.

Yes

Question.

Is he a witness as to character only? Answer. Yes.

INSTRUCTIONS TO THE COURT.

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

(Where any evidence is given for the defence.)

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

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

Question to the accused.

Have you anything to say in your defence? Yes.

Answer.

The accused in his defence says†

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.

I was under the impression that Mr. Harris was coming back off course. I knew he would be seen that night and I thought he would send his kit to be taken down from my hut. Mr. Harris' kit was put in the hut occupied by Mr. Roberts - in the opposite corner. I did not remove Mr. Harris' kit from the hut. It had been removed to the boiler room at the rear end of the washroom. I took it to my hut. When I lifted the basin & laundry off the box I was only looking for Mr. Harris' kit.

Instruction.

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

The evidence of
the witnesses
for the de-
fence, includ-
ing that of the
accused, if he
is a witness,
will be taken
here in the
order which
they
give evidence.

I was putting the timing back bearing
in mind Mr. DeLort's name on the door
just as he came in. As he came in, the
door he asked me what my business
was. I told him I was looking for Mr.
Harris but and I had a mistake &
apologised to him. Then I went out the
door. I was not present during the
discussion among the officer about my
being in the hut.

P. P. 83 (B) complied with.

Second witness to } Local G. E. Harris already
the Defence. } sworn, states. -

She. Turpin has been in my front since the
spring of 42. He has always been a good clean
- clean, and a hard worker. At one time he was
considered as N.O. material. Since he has been
my ballroom, I have personally no reason to
doubt his honesty.

no cross examination.

P. P. 83 (B) complied with.

The Defending Officer, address the Court: - The
accused was in the hut looking for my pit. Although
he had left it in that hut it was removed by
someone else. Some of it was still on that hut when
I returned. The accused had quite good reason to
believe it might still be there. I suggest the accused
said was somewhat lipped because he had been
drinking and so could be mistaken as to the hut.

The Prosecutor does not address the Court.

The Court did not require a summing up by the
Judge Advocate.

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CC

Proceedings on Plea of Guilty.

[†] To be struck out
or left out here of
"Not Guilty" has
been pronounced with.

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

The accused *G. 7362 Ser. Mitchell Charles Yurqui*
is found guilty of *the 1st, 2nd, & 3rd. charges.*

KAB

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

Question to the
accused.

Do you wish to make any statement in mitigation of punishment?

Answer.

The accused in mitigation of punishment says:—

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

Instruction.

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

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

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character

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

E Finding.*

The Court is closed for the consideration of the finding.
The Court find that the accused *guilty of the fourth charge.*
See p. C.C.

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

PROCEEDINGS ON CONVICTION *before* Sentence.

*The Court being re-opened, the accused is again brought before it.
Lieut. J. D. Hall, T. Co. A. 1st Regt. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness. I produce AF 2296 and a certified true copy of the accused's AFM Co.*
The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked *H-1*, signed by the President, and annexed to the proceedings.

Question by the President.

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

Question by the President.

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

Question.

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

Question.

Cross-examined by the accused. - *None.*

Instructions. It is usual to read the finding of the Court in a separate part of the proceedings, the finding of the Court being then read in the presence of the accused, and the finding of the Court being then read in the presence of the Court, and the finding of the Court being then read in the presence of the Court, and the finding of the Court being then read in the presence of the Court.

Question to the accused.

Do you wish to address the Court? *Answer. By my defending officer. (See p. F.)*
The Court is closed for the consideration of the sentence.

LB

Sentence. WLL

The Court sentence the accused

WLL

Jurat H. C. Harris addresses the Court in mitigation of sentence. I point out that Turpin's comparatively clean MFH 6 - the last entry being somewhat over a year ago: that the Police Sgt. said he was truthful and anxious to give assistance: that liquor was to blame. Mrs. Turpin has a young wife of 26 in Canada - a 15 year old child whom he has never seen. He is the sole support of his family. Because of his age he is scarcely eligible for return to Canada.

SUMMARY OF EVIDENCE: In the case of G.7332 Gnr Turpin, Mitchell Charles of the 15 Bty., 7 A.Tk., Regt., R.C.A., a soldier of the Canadian Army (AF)

3
A. R. Moore
Percy Hook
W. B. Hook
Percy Hook

FIRST WITNESS: Percy Hook (civilian)

I am Percy Hook, maintenance fitter attached to Garrison Engineers, Paxhill House. I am quartered in Paxhill House. On Friday 9 Oct 42, I was in possession of a Schick electric razor. On Sunday morning about 0730 hrs 11 Oct 42, I noticed the razor was missing from the storeroom where I had left it. The case which had contained the razor was in its place. I notified the Commanding Officer of the 7 Anti-Tank Regiment R.C.A., about 0745 hrs, of the loss of the razor. On Monday 12 Oct 42, a civilian police Sergeant showed me an electric razor which I identified as mine. I value the razor at three pounds.

P Hook

The accused declines to cross-examine this witness.

SECOND WITNESS: Lieut A.R. Moore, 15 Bty., 7 A.Tk., Regt., R.C.A.

I am Lieut A.R. Moore of the 15 Bty., 7 A.Tk., Regt., R.C.A. On 8 Oct 42, I went through my personal kit and noticed that my Kodak Retina Camera was present. I packed it back in its box which was unlocked. On 10 Oct 42, I again went through my kit and the camera was missing. On Tuesday 13 Oct 42, a civilian police Sergeant showed me a camera which I identified as my own. I value the camera at fifteen pounds £15-0-0.

Question by the accused:- Sir I understood you to tell the police Sergeant that you valued the camera at 28-10-0. Is that correct?
Answer:- Yes; that is the price I paid for the camera.

A. R. Moore, Lieut.

THIRD WITNESS: Capt R.G. Struthers # 67 L.A.D.

I am Capt R.G. Struthers of number 67 L.A.D., attached to the 7 A.Tk., Regt., R.C.A. I had possession of a straight razor Saturday 10 Oct 42. On Tuesday 13 Oct 42 I noticed the razor was missing from the bathroom adjoining my bedroom. Tuesday afternoon 13 Oct 42, at about 1800 hrs a civilian police Sergeant showed me a razor which I identified as my own. I value the razor at fifteen shillings, 20-15-0.

R. G. Struthers, Capt

The accused declines to cross-examine this witness.

FOURTH WITNESS:- Lieut J.D. Doherty 104 Bty., 7 A.Tk., Regt., R.C.A.

I am Lieut J.D. Doherty of the 104 Bty., 7 A.Tk., Regt., R.C.A. On Saturday 10 Oct 42, at 1230 hrs., returning to my quarters I found Gnr Turpin kneeling by my opened barrack box. I challenged his presence in my quarters as well as his purpose in disturbing my kit. He stated that it was his understanding that the equipment in the corner which I occupy belonged to Lieut G.C. Harris, for whom the accused was formerly batman. As I was not in a position to verify this statement myself, I questioned officers of the 15 Bty., when they entered the hut, and it was decided that there was no reasonable excuse for Gnr Turpin to enter that hut. Gnr Turpin stated that he had no intention of removing anything from my kit, and I have so far

WAB

found nothing missing. The accused smelled of liquor but was not incoherent. The box beside which he was kneeling was plainly lettered, on the top, with my name and it was necessary to remove a wash basin and some articles of laundry in order to open the box.

..... J. D. Roberts, Lieut.

The Accused declines to cross-examine this witness.

FIFTH WITNESS

P/Sjt. G. Avis, 21 E. Sussex Constabulary, Lindfield, Sussex, having been duly sworn, states:-
"I am George Avis, P/Sjt., #21 E. Sussex Constabulary, stationed at Lindfield. In consequence of information received, I made inquiries and on the 12 instant I interrogated the accused. He informed me that on the tenth instant he was very drunk and could not remember what he did. I questioned him regarding his movements on that day and with some difficulty he gave me a vague account. He mentioned he lay down beside the pond in the camp and I accompanied him to this spot. I made search in the vicinity under some rushes I found the razor (Exhibit A) which I now produce together with camera (Exhibit B) and open razor (Exhibit C) which I also produce. Having cautioned the accused, the meaning of which I explained to him, and told him that he would be reported for stealing the electric razor from a room at Paxhill House between the 9th and 11th instant, he replied "After you had been talking to me I remember going into the room at the house and taking the razor." I also recollect going into the hut which is the Officer's quarters and taking the camera. I would never have done it but for the liquor I had had. I could have done the same thing before as I have had plenty of opportunity but I would never have thought of it." I cautioned and told him that he would be reported also for stealing the camera from the Officer's quarters at Paxhill Camp between the 8th and 11th instant and he replied as stated above. On the 14th instant I questioned the accused regarding the open razor and he informed me that the circumstances were the same as with the other two articles. I cautioned and told him that he would be reported for stealing this razor between the 10th and 12th inst. from the Officer's quarters at Paxhill House and he replied "I remember taking the razor and having it in my possession, but I do not remember where I took it from." When questioning the accused he appeared to be quite truthful and anxious to give me what assistance he could. I have received instructions from the Chief Constable of East Sussex to acquaint the Commanding Officer of the 7 A. Bk. Regt. R.C.A. that he, the Chief Constable, hands over the three cases of alleged larceny against the accused to be dealt with by the Military Authorities.

..... G. Avis, P/Sjt. 21
.....

The accused declines to cross-examine this witness.

The accused on being asked declines to make a statement.

"Certified that Rule of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.
Taken down by me in the presence and hearing of the accused this... day of Oct... 1944 at...
.....

.....
(J. D. Hall) Lieut.
Officer Investigating.

20 Oct 42.

WHP

LIST OF EXHIBITS

- Exhibit "A" An Electric Razor, the property of Mr. P. Hook.
- Exhibit "B" A Camera, the property of Lieut. A.R. Moore
- Exhibit "C" A Straight Razor, the property of Capt. R.G. Struthers.

9/15/55
The Accused requests that Lieut. J.C. Harris be Defending
Officer

M. E. Surpin
.....

Lieut. J.D. Hall will be the Prosecuting Officer.

.....

No. 07362 Name Turpin, M.C. Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet No. and date of last drunk

8 Fld. Corps No. 7 Dist. Depot

Period not reckoning towards freedom from extra fine

Date of enlistment 19/12/40

Sheet No. 1

G.C. Badges: Signature O.C. Company, etc. H. Evans Capt.

Service or Proficiency Pay: I

M.F.M. 6 (A.F.B. 122) FORM - 8. 19. 11/53 11 Q. 1772-48-18

Place	Date of offence	Rank	Class of offence	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa Ont.	1941 Apr. 16	Gnr.		Absent from 0730 hrs 16/4/41 until 0630 hrs. 21/4/41	L/Sdr. Trunks L/S dr. Cook	7 Days C.B. 15 Days ordinary pay	21/4/41	Col. A.V. Tremaine	Forfeits 5 Days Pay F.R. & I.
				T. S. S. 15 Bty. 7 A Trk Regt., R.C.A. w.e.f. 30 Oct. 41	S.H. Parker Capt. R.C.A.				
<u>CERTIFIED TRUE COPY</u>									
					<i>[Signature]</i> Lient. Adjlt. R.C.A.				

*AA Barr
Mcom
President*

*W. B. Cook Capt
Judge Advocate*

Statement as to Character and Particulars of Service of Accused.

Number. Rank. Name. Regiment (or as the case may be).
 07362 Cnr. Turpin, M.C. 7 Cdn A. Bk. Regt. R.C.A.

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

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

† See para. 877, R.R., 1940.

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

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

* Within last 12 months. * Since Enlistment.

For	Sec. 15 (1)	No	times	One	time
For			times		times.
For			times		times.
For			times		times.
For			times		times.

Number of instances of gallantry or distinguished conduct,
 or
 There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or
 Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for
 n-a beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for _____ days
 in civil custody, and nine days in military custody, making a total of nine days,
 of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 41

6. The date of his attestation specified in his record of service is 19/12/40

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

8. The accused is entitled to deferred pay or gratuity in respect of 2 years service.

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

10. The accused is in possession of, or entitled to, no military decoration or military award (or in possession of _____)

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of n-2

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

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

Date of Promotion.

In the rank of _____ years, _____
 In the rank of _____ years, _____
 In the rank of _____ years, _____

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

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

No. **97362** Rank **Cor.** Name **Thompson, M. C.** of **7 A. Tks.** Regiment (or as the case may be).
 (INSTRUCTION.—A verbatim extract from the regimental books, stating these particulars and also sections with trial, must be inserted.)

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

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

Signed this **20** day of **October, 42**
 (J.D. Hall) A/Adj't. 7 Cln A. Tks. Reg't. RCA
 Lieut.

54-152

Pt Survey a.

SCHEDULE.

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

Accused: D-106624, Pte Arthur TURVEY

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
(Insert "alternative" where applicable.) 1st AA 15(1)	GUILTY	GUILTY	
2nd AA 15(1)	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

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

Time in confinement awaiting present trial—a total of 55 days, of which NIL days were spent in hospital. (1)

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

Sentence Awarded by the Court:

TO BE IMPRISONED WITH HARD LABOUR FOR 2 YEARS AND TO BE DISCHARGED WITH IGNOMINY FROM H.M. SERVICE

(Sgd) 28 Apr 45 (Sgd) "D C MacDougall" Maj
Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

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

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

CONFIRMED

(Sgd) "J S Lind" Brig
Date 29 Apr 45
Commanding 3 CDN BASE RFT GP
Confirming Officer.

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

Accused. Date. Signature of Offr.
D-106624, Pte Arthur TURVEY May 01 1945 "C L Nelson" Capt & Adj
9 Bn 3 CRR Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

CPARS TO DIR of AFAS1
NO P. 8. 11. 1001
4/38B

Convened by Order of Brig JSH Lind, DSO Comd. 3 Cdn Base Rft Gp. 25 Apr 45

ACCUSED.

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

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

D-106624 Pte Arthur TURVEY 30 Coy
9 CBR Bn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 28 Apr 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~and any other persons~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fn R/s. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for orders and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 122.)

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

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

A3. The Court is opened. The accused is brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ to undergo trial by court-martial. (1)

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

A5. ~~.....~~

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

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

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

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

President	Major	D C MacDOUGALL	9 CBR Bn
Member	Capt	R H DONALDSON	9 CBR Bn
Member	Lieut	D J COWLEY	9 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	J R FIRTH	9 CBR Bn
Defending Offr	Lieut	K B HUNT	9 CBR Bn

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Comd Offr.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment makes (a) (no) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A6 rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 3 CBRG Vol. 1 P. 99

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc. see RP 76-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

D3. The evidence for the Prosecution is taken.⁽¹⁾
(1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

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

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

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

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

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

Are they witnesses as to character only? Ans.
(1. RP 115. 2. RP 40(A), see 90(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.⁽¹⁾
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A92. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement⁽¹⁾ as to Character and Particulars of Service⁽²⁾, and certified true copy (.....) of Conduct Sheet⁽³⁾, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier⁽⁴⁾ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C, respectively.⁽⁵⁾
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement⁽¹⁾ and Conduct Sheet⁽²⁾, and in mitigation of punishment?⁽³⁾ Ans. Yes in Mitigation of punishment.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. (RP 37(F) fn 7.)

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

E5. The Court considers the sentence.⁽¹⁾ The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.⁽²⁾
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 120, 182, RP 48-50, 69, 118, 119(A), KR Can 508, 530, 583-586, Overseas RD 309, 2323, MAMU p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 30. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-106626 Pte. Arthur, TURNER, of 30 Coy, 9 Bn. 3 C.B.R.G. A Soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, in Belgium, did absent himself without leave from 12 Bn. 3 C.B.R.G. from 0900 hrs. 19 Nov. 44, until surrendering himself to T/199457 C-1. Fink, I.C., 94 Coy. H&C at LAURE, Belgium at 1430 hrs 24 Dec. 44.

Total Time Absent 35 days, 5 hrs, and 30 minutes.

SECOND CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, in Belgium, while in close arrest did absent himself without leave from 2000 hrs. 1 Feb. 1945 until apprehended at 1130 hrs. 14 April 1945.

absent: 71 days, 19 hrs. 10 minutes.

J. H. Rick
(U.S. RICK) Lieut-Col.,
Commanding,
9 Bn. 3 C.B.R.G.

In the Field,
21 April 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
28 Apr 45

J. S. H. Lind
(J S H Lind) Brig
Comd 3 Cdn Base Rft Gp

D. J. Day
Pres.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried in his command or not, a FGCM may on application to him be convened by any other force if authorized in law, in immediate command of troops on active service, subject to RP 106(C) and regulations, or by the Staff of the Canadian Army Overseas, or by appropriate authority, RP 87(B). There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly on separate charge sheets see RP 62, and as to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/R or A/Appmt, if any, see AA 182, 183, fn. KR. Cdr. 109, 178, 330.)

CP 500 (in lieu of AYAS) NOV 1957 (2003)

Number. (a) Prmt B. (b) Appmt, A/R or A/Appmt. Pte

Full Christian Names. Surname. Unit.

ARTHUR TURVEY 30 Coy
9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and endorsed by me, ~~and that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial;~~ "To be tried by Field General Court-Martial".

(date) 25 Apr 45

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(Delete part in brackets when not required for compliance with RP 106(C).)~~

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

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

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

PRESIDENT. CAC 9 CBR Bn (Unit)

Major (Rank.) D C MacDOUGALL (Must be named. RP 106.)

MEMBERS.

Capt (Rank.) To be detailed by 9 CBR Bn (Unit)

Capt or Lt (Rank.) To be detailed by 9 CBR Bn (Unit)
(Named or detailed. RP 106.)

WAITING MEMBER. (Unit)

Capt or Lt (Rank.) To be detailed by 9 CBR Bn (Unit)
(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE. (Unit)

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

Brigadier (Rank.)

On Active Service in the Fd

"J S H Lind" (Signed personally. RP 105 fn 2.)

in BELGIUM (Country.)

Commanding 3 CDR BASE RPT GP Convening Officer.

Date: 25 Apr 45

CONVENING OFFER WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"D C MacDougall" Maj Pres

FIELD GENERAL COURT-MARTIAL

(Form 100, Use of AFAB)
GPO: 1967 O-284-848

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

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

As to reasons for showing (a) permanent or confirmed rank, and (b) appointment, rank or appointment, if any, see AA 182, 183, fn. KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-106624	Pte		Arthur	TURVEY	30 Coy 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person ~~(s)~~ named above as the accused, being subject to military law, has ~~(been)~~ committed the offence(s) set forth in the Charge Sheet ~~(s)~~ attached and on ~~(date)~~ 25 Apr 45 endorsed by me, ~~(to be tried by Field General Court-Martial)~~, "To be tried by Field General Court-Martial".

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

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

~~(To be appointed or detailed to form the Court-Martial to try the said person(s) on the day, for the reasons stated in this order.)~~

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

~~(To be appointed or detailed to form the Court-Martial to try the said person(s) on the day, for the reasons stated in this order.)~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	D C MacDOUGALL	CAC	9 CBR Bn
(Rank.)		(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	To be detailed by 9 CBR Bn
------	----------------------------

Capt or Lt	To be detailed by 9 CBR Bn
(Rank.)	(Named or detailed. RP 106.)

WAITING MEMBER.

Capt or Lt	To be detailed by 9 CBR Bn
(Rank.)	(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in BELGIUM	"J S H Lind"	Brigadier
(Country.)	(Signed personally. RP 105 (fn 2).)	(Rank.)

Date: 25 Apr 45	Commanding	3 CDN BASE RPT GP
		Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"D C MacDougall" Maj Pres.

MEDICAL OFFICER'S CERTIFICATE

(M(Can) Para 657)

I certify that I have this day examined D-106624 Pte
TURVEY, A and in my opinion he is fit/~~xxxxxx~~ to undergo

trial by Court Martial.

Station In the Field

Date 28 Apr 45

"S A Simms" Capt

Medical Officer

9 Bn 3 CBRG

(MIL)

"D C MacDougall" Maj
gives

SUMMARY OF EVIDENCE

In the case of D-106624 Pte. TURVEY A. on strength of
30 Coy. 9 Bn. 3 C.B.R.G. Canadian Army Overseas.

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

FIRST WITNESS:

Capt. C.L. NELSON, Adjutant of 9 Bn. 3 C.B.R.G. having
been duly sworn states:-

I submit herewith AFB 115, Record of Declaration of
Court of Enquiry and Certificate under S 163(1)(j)
received by me pertaining to D-106624 Pte Turvey A.
which are marked Exhibits "A" and "B" respectively
and attached to the proceedings.

The accused declines to cross-examine the witness.

C.L. Nelson
.....
(C.L. NELSON) Capt.
Adjt.,
9 Bn. 3 C.B.R.G.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

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

The accused declines to make any statement or give
any evidence.

The accused declines to call any witnesses.

I certify that the foregoing Summary of Evidence
consisting of one page was taken down by me in the
presence of the accused and that Rules of Procedure
4(a)(4)(e) and (f) have been complied with.

W. Lloyd Wornell
.....
(W. LLOYD WORNBELL) Lieut.
9 Bn. 3 C.B.R.G.

In the Field, in Belgium,
Date _____

W.A.
On a charge of my
Assistant

ADDITIONAL SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE

In the case of D-106084 Pte. TURVEY A. of 30 Coy
9 Bn. S.C.B.R.G.

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

FIRST WITNESS

A-42218 L/Cpl. CARNegie E.M. of 9 Bn. S.C.B.R.G.
having been duly sworn states:

At 1900 hrs 1 Feb. 1945 I was duty H.C.O. i/c
of 9 Bn. Detention Room S.C.B.R.G. At that time
I called the roll of personnel in the Detention Bks. and
the accused, whom I now recognize as Pte Turvey was
present. Again at 2020 hrs. I called the roll and
at that time the accused was not present. I made
a thorough search of the Detention Bks and he could
not be found. I then marked him as an escapee.
That's all Sir.

The accused declines to cross-examine the witness.

E. M. Carnegie
.....
(A-42218 L/Cpl. CARNegie E.M.
9 Bn. S.C.B.R.G.

SECOND WITNESS

Documentary,

The certificate of apprehension, produced as documentary
evidence, was read over to the accused marked Exhibit
"A", signed by me and attached hereto.

W. Lloyd Worrell Lt
.....
(W. LLOYD WORRELL) Lieut.
Officer detailed to take
the summary of evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

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

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence
consisting of one page was taken down by me in the
presence of the accused and that RF 4(c)(d)(e) and
(f) have been complied with.

W. Lloyd Worrell Lt
.....
(W. LLOYD WORRELL) Lieut.
Officer detailed to take
the Summary of Evidence

In the Field
20 April 1945

Sgt A. J. ...
President

S. A. DeM

RECORD of the Declaration of a Court of Inquiry assembled at In the Field
on the 19th day of Dec 1944, for the purpose of investigating
and recording the absence, without leave, from his duty, and deficiency, if any, in
the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing
of No. D-106624 Pte TURVEY, A

DECLARATION

The Court declare that No. D-106624 Pte TURVEY, A
on strength of 12 Bn 2 CBR Gp

illegally absented himself without leave in the field
at 0900 hrs on the 19th day of Nov 44
that he is still so absent, and that on the 21 Nov 44 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES	Qty	100% VALUE	ARTICLES	75% VALUE
Battle Dress Blouse	1	\$ 5 25	.....	\$ 3 94
Battle Dress Trousers	1	5 39	.....	4 05
Boots Ankle	1 pr	5 46	.....	4 10
Shirts Angola	1	2 03	.....	1 53
Drawers Cellular	1	43	.....	32
Razor	1	06	.....	04
Shaving Brush	1	37	.....	27
Tooth Brush	1	11	.....	08
Holdall	1	19	.....	14
Beret	1	1 21	.....	85
Socks	1 pr	37	.....	28
Total		<u>20,87</u>	total	<u>\$15,60</u>

Capt D F Storey President

Capt E M Brown Member

Capt G F B Humble Member

Signed at In the field
this 19th day of Dec 1944

Signature of Commanding Officer A O Hood Lt-Col
OC 12 Bn CBR Gp

ME Bk 68
50-3-41 (5050)
HQ 1773-41-49

CERTIFIED TRUE COPY "C L Nelson" Capt & Adjt
9 Bn 2 CBRGp
of entry in M11 Bk 68 now in my custody.
"C L N"

DL

CERTIFICATE OF APPREHENSION IN ACCORDANCE WITH ARMY ACT SECTION 153A(1)(c)

I certify that No P-106624 Rank Pte Name TURVEY A.
surrendered himself to me at LAARNE, Belgium
of RASC (place) at 1430 hrs on 24 Dec 44

(date). He was dressed in uniform/~~XXXXXXXXXXXXXXXXXXXX~~

Date..... Signature of Provost Marshal, AFM, or other officer into whose custody the a/m person was taken on arrest.

Signature & Rank... Cpl A.G Pink T/195657
94 Coy RASC

Unit or appointment Bulk Petrol Transport
HEUSDEN

~~XXXXX~~ ???????? Major
O C Bulk Petrol Transport Coy RASC

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer for another or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

AM

CERTIFICATE IN ACKNOWLEDGEMENT P.F. 2757 of 10 Apr 45

I CERTIFY THAT No D-106624 Rank Pte Name TURVEY, A
Unit 12 Bn 2 CBRG was arrested at BRUSSELS (Place)
at 1130 (hour) on 14 Apr 45 (date) and that at the time of his
arrest he was wearing (military uniform) ~~xxxxxxxxxxxxxxxxxxxx~~

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

Field
14 Apr 45

(J Tweddle) A/Capt
Officer Commanding
2 Cdn L of C Provost Coy

Exhibit "A"

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
-------------------------------------	-------------------------	------------------------------	-------------------	---

.....

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

Signed this 28 Apr 45
 day of

"C L Nelson" Capt ' Adjt

 9 Bn 3 CBRI

STATEMENT IN MITIGATION OF PUNISHMENT
IN THE CASE OF
D-106624 PTE TURVEY, A

Pte TURVEY joined the Army 25 June 1940 and came to England with the 5th C.I. Bn 2nd Div in Dec 1940.

He came to France on 12 July 1944 with the 35th Composite Company.

He remained with this Unit until going to hospital for a short period in Nov - on discharge from hospital he was posted to 12 Bn 3 CBRG

Pte TURVEY states he had a clean conduct sheet when he reported to this Holding Unit.

I ask the Court to consider, the Service of the accused and his previous good conduct in passing sentence.

"R B Hunt" Lt

Defense Officer

"DM"

4V.127

PTE TUTT C.F

CERTIFIED TRUE COPY

L/V-127

(D.M. OR AN) CPT FIELD GENERAL COURT-MARTIAL

CP Form 1 (in lieu of AFM 31) P. R. N. 1008 (2004)

CDN SEC 2 ECH

Convened by Order of Brig I S Johnston DSO ED Comd 11 Cdn Inf Bde dtd 22 Jan 45

AFHQ 16 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 193, fns, KR Can 308, 328, 330.)

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

B 147829 Pte Charles Frederick TUTT IRC
 Proceedings reviewed
 "W.B. Bate" Capt A/WJA
 CDN SEC 2 ECH AFHQ

PROCEEDINGS OF TRIAL.

Held in the Pd in (country) Italy on (date(s)) 25 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRANGEMENT.

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1150 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. (1) The Prosecutor declares that the accused is (are) fit to undergo trial by court-martial. (1)

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

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

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

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

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

Ans No sir.

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

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

President	Major	N Hickling	IRC
Member	Capt	D A COOK	Perth
Member	Capt	L E FOX	CBH
Judge-Advocate	Capt	W M W SHAW	HQ 5 Cdn Armd Div
Prosecutor	Capt	G J WOOD	IRC
Defending Offr	Capt	D A SMITH	IRC.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

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

(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 98 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) plea "WJWS" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused.)

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

(1. RP 21, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AS6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: B 147829 Pte Charles Frederick TUTT IRC

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

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

A1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296. (1)

Time in confinement awaiting present trial—a total of 43 days, of which 5 days were spent in hospital. (1)

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

Sentence Awarded by the Court:

TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS.

(Sgd) "WJWS Shaw" Capt 25 Jan 45 (Sgd) "N. HICKLING" IRC Maj
 Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
 (See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

I confirm the finding and sentence of the court.

I direct that the accused be committed to prison or detention for term and further orders. (1) "ISJ"

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

Date 29 Jan 45 (Sgd) "IAN S. JOHNSTON" Brig

Commanding 11 Cdn Inf Bde
Confirming Officer.

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

Accused. Date. Signature of Offr.
 B147829 Pte TUTT C F 1 FEB 45 "F.O. WHITE" Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

B3. The Court considers the accused's statement.⁽¹⁾ The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). ~~the President records the finding(s) of Guilty in Part I of the Schedule and the Court proceeds to consider the sentence to be awarded.~~

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ⁽¹⁾ Do you intend to call witnesses on your behalf?

Ans. ⁽¹⁾ At my witness as to character only? Ans. ⁽¹⁾
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CP 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.⁽³⁾ Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed **WITNESSES** ⁽¹⁾

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

(1. MFB 333 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

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

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

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

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 132. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 58(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, B147829 Private Charles Frederick TUTT,
The Irish Regiment of Canada, a soldier of the Canadian
Army placed on Active service, is charged with:

FIRST CHARGE: WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF
Sec 15(1) WITHOUT LEAVE,
Army Act.

in that he

In the Field on the 17th October 1944 at 0630 hrs.
absented himself without leave until apprehended by
the military Police in ROME at approximately 1100 hrs.
13 December 1944. (Total absence 57 days 4 hours, 30
minutes).

In the Field "L H C PAYNE" Major
18 January 1945 (L H C Payne)
A/Comd the Irish Regiment of Canada.

"To be tried by Field General Court Martial

Field 22 Jan 45 "IAN B JOHNSTON"
 (I.S. Johnston) Brig.
 Comd 11 Cdn Inf Bde.

"WWS" "NE"

FIELD GENERAL COURT-MARTIAL

CFAR (In lieu of AFAR)
40 PAR/1607 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP B7(E).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 107.

As to reasons for showing (a) permanent or confirmed rank, and (b) appnt, A/rank or A/appnt, if any, see AA 162, 183, fns, KR Can 308, 326, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B147829	Pte		Charles Frederick	TUTT	IRC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 22 Jan 45 endorsed by me, ~~(or by authority of my chain of comd)~~. To be tried by Field General Court-Martial". "ISJ"

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

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

~~I do hereby appoint (a) three Offrs to form the Court, (b) a Det Offr as President for the purpose. I have attached thereto -~~ "ISJ"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

Major	N HICKLING	I R C
(Rank)	(Must be named. RP 106.)	(Unit)

MEMBERS.

Capt	D. A. COOK	Perth
------	------------	-------

Capt	L E FOX	CBH
(Rank)	(Named or detailed. RP 106.)	(Unit)

WAITING MEMBER.

Capt	R L SIMMONDS	PLF
(Rank)	(Named or detailed, if any. RP 106.)	(Unit)

JUDGE-ADVOCATE.

Capt	"W.M.W. Shaw	HQ 5 Cdn Arm'd Div
(Rank)	(Must be named, if any. RP 106.)	(Unit)

On Active Service in the Fd

in <u>Italy</u>	"Ian S Johnston"	Brig.
(Country)	(Signed personally. RP 105 (n 2).)	(Rank)

Date: <u>22 Jan 45</u>	Commanding <u>11 Cdn Inf Bde.</u>	Convening Officer.
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CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"W.M.W.S" "??????"

OF MFM 6 MUST ACCOMPANY, THIS FORM:
CERTIFIED TRUE COPY OF THIS FORM

I certify that I have this morning examined B 147829
Rank Pte Name TUTT C F
and in my opinion he is fit to undergo trial by court martial.

Station Field

24 Jan 1945

Painted & Scabbed

25 Jan 45

Fit. Repainted for Scabis.

"W.L.W.S"

"J.R. McMullin" Capt
Medical Officer
KR (CAN) 557

1.

AME ACSD STATEMENT:

Was engaged to a Scotch ATS stationed in CASERTA. Had every intention of marrying her. We got into rest at RICCIONE & I received a letter from me saying she did not want to hear from or see me. I wrote a few letters & received no reply. Did not know what to do - I was one of newest men with regt & knew with so many deserving passes I should not be up for one. One day got talking with 2 others planning to go AWL so decided to go with them & find out the trouble. When got there saw the girl. Her father had some objection to her marrying a Cdn - he wrote & as much as said would disown her if she married me. Could do nothing so came back to Rome intending to come back to regt. Had been gone 16 to 20 days at this time. When got to Rome heard from others that IRC had gone back into lines. Was so discouraged that I lost my head & just stayed until I got caught.

DEF OFFR IN MITIGATION:-

Have heard acsd's statement of reasons for going AWL. Reasonable that would be worried. Take into consideration acsd's youth also gives good indication for going.

Had not been with unit long - had been in action.

Took 15 days or so to get things straightened up & then got discouraged.

Acscd is eldest in family of 5 of which step brother step mother & father separated.

Has reasonably clean conduct sheet & ask court to consider & be lenient.

"W.M.W. SHAW" Capt

SUMMARY OF EVIDENCE
in the case of

3147829 Private Charles Frederick TUTT, The Irish Regiment of Canada, a
Soldier of the Canadian Army placed on Active Service.

CHARGE:
(1) When on Active Service, Absenting himself without leave.

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

FIRST WITNESS:

B79977 Pte. Jackson, C.H., The Irish Regiment of Canada
having been duly sworn, states:-
"I am B79977 Pte. Jackson, C.H., "C" Company, the Irish
Regiment of Canada; On 17 Oct 1944 I found Pte. TUTT
absent at 0630 hrs. I searched the area and he could
not be found. We were at the time, billeted in RICCIONE
and I was an acting Corporal and I was in charge of 15
platoon of which Pte. Tutt was a member. I did not see
Pte Tutt from 17 Oct. 1944 until 26 Dec. 1944 when he
was in the guard-house at ~~Castellino~~." "C.H. JACKSON"

The accused declines to cross-examine the witness.

SECOND WITNESS:

Capt N.H. SHAW, the Irish Regiment of Canada, having been
duly sworn, states:-
"I am Capt N H Shaw, the Irish Regiment of Canada
representing the Adjutant, Capt F.C. Whyte, The Irish
Regiment of Canada. I produce a certificate in accordance
with A.A. Sec 163 (1)(11) as to the arrest of Pte Tutt
on 13 Dec. 1944." "N.H. SHAW" Capt

The accused declines to cross-examine the witness.

The certificate of apprehension mentioned by the witness
is herewith produced, read over to the accused and
marked Exhibit "A", signed by me and attached hereto.

Question to the accused:

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

Answer by the accused:

"I have nothing to say".

"C.F. TUTT"

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

Taken down by me in the presence of the accused, in the
Field this 15th day of January 1945.

"A"
"W/MS"

"J.E. CHARETTE" Capt
(J.E. CHARETTE) Capt.
The Irish Regiment of Canada
Officer detailed to take Summary of Evidence.

Exhibit "A" - To the Summary of Evidence
in the case of B-147829 Pte TUTT C F
Irish Regt of Canada. "J.E. CHARETTE" Capt
Officer taking summary.
CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163 (1)(JJ)

I certify that No B/147829 Rank Private Name TUTT C F
Of the IRISH REGIMENT OF CANADA

was arrested at ROME at 1100 hrs on the 13 th day of December 44

S "?????????"
w Rank Lieutenant
o Appointment(if any)
Commanding 111 Provost Company C.M.Police.
Date 13th December 1944
"A" "WWS"

Substitute for AFB 296
or MFB 355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No B147829 Rank Pte Name TUTT C F Unit I R C
Age 19 Married or Single Single No of Dependents N/A
Date of Attestation 10 June 43
Number of days in close arrest awaiting trial 43 days
Civil Military 36 Hospital 5 Total 43
Dates of appointments, promotions, etc. (if any) N/A
Decorations N/A

In the Field

Date 25 Jan 45 "B" "WWS" "P.C. WHYTE" Capt & Adj
Officer i/c Regt'l Books

NOTE: Certified true copy of MFM 6 must accompany this form.

NB147829 Name TUTT C F

Sqn. Battery
or Company

Corps CIC

Date of enlistment 7 Jun 43^{BC}
Badges

Service or
Proficiency Pay

MFM 6
(AFIS 123)
40/P&S/136 (3438)

Date of last entry in
Company Conduct Sheet 25 Oct 43^{2nd date}
of ^{1st} drunk Nil

Period not reckoning towards
freedom from extra fine

N/A Sheet No 08

Signature OC
Company, etc

Character

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
Camp Borden	11 Oct 43	Pte		Sheet destroyed effective 7 Dec 43. Certified no further reg'tl entries (A.V. Wilson)				Major AW MacDonald	major A.16 Forf 3 days pay FR&I 149 1 (a) "C" "WBWS"
				AWL from 0600 hrs 11 Oct 43 until 1500 hrs 13 Oct 43 57 hrs A.A. Sec 15(1)	L/Cpl Todd C L/Cpl. Weir C Doc'ty	7 days CB	14OCT 1943		
				....."F.C. WHITE"..... Capt. & Adj. Certified true copy form regimental conduct book 16 Jan 45					

5'4.30

Mr. Tutt, C.F.

SCHEDULE.

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

Accused: 0147829 Pte Charles Frederick TUTT 2 Cde NETD

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
(Insert "alternative" where applicable.) 1st AA Sec 40	Not Guilty	Not Guilty	
2nd AA Sec 40	Not Guilty	Not Guilty	
3rd AA Sec 40	Not Guilty	Not Guilty	
4th AA Sec 40	Not Guilty	Not Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 4B3 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

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

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

Time in confinement awaiting present trial—a total of _____ days, of which _____ days were spent in hospital. (2)

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

Sentence Awarded by the Court:

(Sgd) W. J. Gunn 17 Apr 45 (Sgd) D. McArthur
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date _____ (Sgd) _____ Commanding

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

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

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

Noted

I direct that the accused be not committed to prison or detention barracks until further orders. (2)

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

Date 27 Apr 45 (Sgd) F. J. Stewart
Commanding FOIC, Cde 1st Cde AFHQ Confirming Officer.

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMMHQ IN AD 100 35-30.
FIELD GENERAL COURT-MARTIAL

CPAHS (10 Dec of AFHQ)
40 P. 8. 1808 (1010)
4/38B

Controlled by Order of Col S. A. Lee M.C. A/OIC dated 11 Apr 41

ACCUSED.

(a) the trial of two or more charged jointly see RP 66, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appoint, A/rank or A/point, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

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

314 PROCEEDINGS REVIEWED
REVIEWING OFFICER, 10 Cde AFHQ
Charles Frederick TUTT 2 Cde NETD
PROCEEDINGS OF TRIAL

Held in the Fd in (country) Italy on (date(s)) 17 Apr 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 94, 103, 119, 123.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 11.00 hours trial commences. (1)

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

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. President to accused: Do you object to Miss Stella Sheple as interpreter? Ans NO

The Interpreter is sworn. (2) Do you object to _____ as shorthand writer? Ans NO

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

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

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

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

President	<u>Majr D. McArthur</u>	<u>Cde Sec 1st Cde AFHQ</u>
Member	<u>Capt T. G. Street</u>	<u>2nd NETD</u>
Member	<u>Capt E. B. Kersey</u>	<u>2nd NETD</u>
Judge-Advocate	<u>Majr W. J. Gunn</u>	<u>Cde Sec 1st Cde AFHQ</u>
Prosecutor	<u>Capt D. W. Rose</u>	<u>Cde Sec 1st Cde AFHQ</u>
Defending Offr	<u>Capt R. Bergman</u>	<u>2 Cde NETD</u>

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

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

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

A8. The accused _____ before arraignment make(s) (no) (of plea) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fnn to RP cited. Insert in 4B rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

0.93

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans..... (2)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(b) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

D2. The Prosecutor makes (not) opening address.(1)

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

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

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

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

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

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

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

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

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

Ans..... Are they witnesses as to character only? Ans.....

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

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 405. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) on the..... charge(s), being subject to confirmation, will be promulgated intact(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

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

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

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

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

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

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2325, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

*See sum
with
original
ya*

The accused, BL47829 Private Charles Frederick TUTT, Attached
Tap to 2 Cdn NETD, a soldier of the Canadian Army Overseas,
is charged with

FIRST CHARGE
AA Sec 40

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

in that he

in the Field, Italy, in or about the month of November 1944,
was in improper possession of 23 blankets, public property.

SECOND CHARGE
AA Sec 40

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

in that he

in the Field, Italy, in or about the month of November 1944,
was in improper possession of 35 mosquito nets, public property.

THIRD CHARGE
AA Sec 40

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

in that he

in the Field, Italy, in or about the month of November 1944,
improperly disposed of 23 blankets, public property, to BROGI
Vittorio, a citizen of Rome, Italy.

FOURTH CHARGE
AA Sec 40

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

in that he

in the Field, Italy, in or about the month of November 1944,
improperly disposed of 35 mosquito nets, public property, to
BROGI Vittorio, a citizen of Rome, Italy.

In the Field
Italy
10 Apr 45

D. B. Bruggen
Commanding Officer
2 Cdn NETD

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
11 APR 45

J. G. Stewart
Brie
CIC
Cdn Sec 1 Ech AFHQ

FIELD GENERAL COURT-MARTIAL

*Done
W. Lee
ga*

(Whether the accused to be tried in his command or not, a FGCM may on application to him be convened by any offr. of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authority, AA 45, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 107.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/Rank or A/Appmt, if any, see AA 182, 183, fns, RR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E.147829	Pte.		Charles Frederick	TUTE	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 APR 45 endorsed by me, (or by an offr. of my staff for me), "To be tried by Field General Court-Martial".
2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)
3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.
4. I am unable to appoint (a) the _____ as President, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 10 (B), 10. Delete the whole or part, if not applicable.)
5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder:
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank)	D.W.	McADAM	CIC (Must be named. RP 106.)	Cdn Sec 1 Ech AFHQ (Unit)
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MEMBERS.

Capt	T.G.	STREET	CIC (Named or detailed. RP 106.)	2 Cdn NETD (Unit)
Capt (Rank)	E.D.	HERSKY	CIC (Named or detailed. RP 106.)	2 Cdn NETD (Unit)

WAITING MEMBER.

Lt (Rank)	I.W.	CAMPBELL	CIC (Named or detailed, if any. RP 106.)	2 Cdn NETD (Unit)
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JUDGE-ADVOCATE.

Major (Rank)	W.A.D.	GUNN	CIC (Must be named, if any. RP 106.)	Cdn Sec 1 Ech AFHQ (Unit)
-----------------	--------	------	---	------------------------------

On Active Service in the Fd

in Italy
(Country)

Date 11 APR 45

S. A. Lee
(Signed personally, RP 105 fn 2.)
(S. A. Lee)

Colonel
(Rank)

~~Commanding~~ A/OIC Cdn Sec 1 Ech AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Unit *1st Regt of Lcho*

MORNING SICK REPORT
MEDICAL INSPECTION REPORT

Form 100-114

Squadron, battery or company *No. 1 MP Co B*

Station and Date *Field 17. 4. 1945*

Army No.	Rank and Name (If No. from Name in full) Last name first Maiden name if married	Completed Years of		Religion	If for duty †	Whether a Detachee	Line or Service	Rank or Men	Disease	Diagnosis Medical Officer's Name and Signature
		Age	Service							
<i>B 147229</i>	<i>Plt Salt C.</i>									

For Trial By F.I. C.M.

*F.I. REF!
T.I. Silbald
G.H.R.M.C.*

*W. J. Humm
ja*

* Strike out whichever is not applicable.
† State nature of duty of which warned; in the case of medical inspection the reasons, such as, "for trial by Court-Martial," or "joining the station," etc., should be stated against their names.

Thompson
Ordinary
N.C.O.

Prosecution

Paganus Fabio 21 Via del Uivirinale Rome
being duly sworn states:-

I recognize the accused in court. I met him
about August or September 1944. I met him in
my father's shop which is in Via Nazionale no 77.
He used to come there. I was there interpreting between
the waiter and the soldiers in my father's place.
My father has 4 barmen or 5. In those days
we had 5. The accused was trying to sell some
blankets and I interpreted for him with Brogi
Vittorio. ~~He comes~~ They were talking about
blankets and Brogi wanted to know the price.
The accused said 600 lire. I don't know what
kind of blankets. Accused said they were grey
in color. I don't remember if he said how
many blankets. Accused did not sell me any
blankets. I don't remember if he offered me any
blankets. The accused went by the name of
Charlie. I think he had an Irish Regiment
patch on his shoulder. I think it was September
the conversation took place between accused and
Brogi with me as interpreter

Cross examination:-

Brogi does not understand English. He
could not have conducted the deal without me
as an interpreter. I didn't want the blankets.
I might have told the police I didn't want to buy
them or they were allied blankets. I said to the
police "The blankets were originally offered to me
but I did not wish to buy them as I had
to belong to the allied forces." That is the truth
I didn't see any blankets. I didn't see a

Prosecution 1

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could not have conducted the deal without me
as an interpreter. I didn't want the blankets.
I might have told the police I didn't want to buy
them or they were allied blankets. I said to the
police "The blankets were originally offered to me
but I did not wish to buy them as I knew them
to belong to the allied forces." That is the truth.
I didn't see any blankets. I didn't see any

2

misquoting nets. I knew the transaction between account & Brogi was illegal. I did the interpreting for them and I knew the deal was wrong.

was re-examination

To the court - The account I think speaks a little Italian. The account didn't say they were army blankets. I assumed they were. I never saw them. When I was interpreting for Brogi I didn't tell him they were army blankets. I didn't tell him they were not army blankets.

R.P. 83(b) complied with
at 1200 hrs the court adjourns until 1400 hrs
on the 17 Apr 45. On the 17 Apr 45 at 1400 hrs
the court reassembles, pursuant to adjournment;
present the same members as on the morning of
the 17 Apr 45.

Brogi Vittorio, Via Scipione no 134, Rome, being
duly sworn states, thru the interpreter:-
I ~~work at~~ am a traveller for food
stuffs. In November 1944 I was working in
Rome. I know Pagano Fabio. I never had
any business with Fabio. I don't recognize
anyone in this court room. I usually bought
tin food stuffs, and at the present moment
anything that can be had to sell or buy.
During November 1944 I can't remember what I
bought and sold, but it was different miscellaneous
things. ~~Some of the things I bought were~~ During
month of November 1944 I bought from a soldier
23 blankets. Only once did I buy from a soldier.
I made the deal in the cafe Pagani. When I
made the deal there was present several soldiers

myself and the son of the proprietor of the Cafe
 who was interpreting. His name is Fabio
 Pagan. We arranged the affair at once
 in one conversation. They were grey blankets,
~~I paid~~ we agreed that I should pay
 600 lire for each blanket. The blankets were
 delivered to me immediately. They were in
 a truck. The blankets were shown to me
 inside the box and not bearing any military
 signs and I was told they were acquired
 by the soldiers when they were in Tuscany
 in a private way. I paid the soldiers in all
 14500 lire.

was examined :-
 I examined a blanket before I made the deal.
 I looked at it inside the box. I ~~thought~~
 thought it was a civilian blanket.

A examination - none
 To the court - The blankets were in the car
 when I made the original agreement. One was in
 their possession at the box. I assume they
 had them outside in the car as they could
 get back with them in about five minutes.
 I did not accept the blankets on the premises
 of the box, but went with the soldiers to my
 own home.

The money paid by me was in half in
 AM-Lire ~~cash~~ bills and half in Italian lire
 notes. There were 20 notes of 100 lire. I remember
 this because I had to count them twice.
 I constrainedly when I gave the money to. He was
 sturdy - large built - There were three soldiers who
 accompanied me to my home with the blankets,
 as a result of the court's questioning the
 defendants their acts, permission to look further

questions of the witness - Permission granted by the court.

I made a statement to the Police in November of last year. My statement was as follows, in part, :- "To my question if the blankets belonged to the allied forces near Pogans assured that they did not and that one of the soldier's left and was back within ten minutes with a blanket under his arm and Pogans who was the interpreter let me get in the food-shop where I looked at the blanket and satisfied that there was no mark and they seemed civil blankets I accepted to buy about twenty and I fixed the price with one of the soldiers for 600 lire for each blanket. After that the soldiers asked me to wait for them as they would be back and in fact I waited at the door of the cafe for about an hour till they arrived by car and asked me to get in the car with them and we went to my home." This statement is the truth.

The blankets I bought were the same color as the ones in front of me on the table in court (light gray) except that they had stripes. The quality of the material was not the same as that on the table here. In the middle was a very broad stripe and on each side of the blanket was another stripe. Can't recall color of stripes, it wasn't black. When I bought the blankets from the soldier Pogans Fabis was not present. The first blanket bought is as a sample was seen by Pogans Fabis.

R.P. 83/11 complied with.

43947092/Cpl H.S. Russell III Provost Coy
I in Police being duly sworn states:-

Recall 13 Dec 44. I was on duty at
Central Police Station - Old Quatera - Rouse-
at ^{about} 11:00 hrs I was on duty there where Pte
Otto Veina of the 52nd MP Coy U.S. Army
banded me to me the accused Pte Tutt &
stated at the same time he was on absentee.
I asked ~~him~~ if he had permission to be in
home & he said "I haven't a pass." I
also observed he was wearing on his left
arm, Sgt's chevrons. Tutt put his hand
into his battle dress blouse & brought out
a parcel, ~~was~~ two small parcels wrapped up
in a larger one. He said you might as well
take this lot while you are at it. On account
of the large amount of money being banded me I
inquired the S.I.B. Tutt admitted being absent
from his regiment from September 1944, Sgt Dyson
& 76 S.I.B. arrived at Central Police Station and
he took possession of the money. I did not
count the money. I examined the ~~two~~ money.
It was Stalton's 1000 lire notes, and Stalton's
500 lire notes and two fifty lire Allied
military currency. I did not count any portion
of the money. I was present when it was counted.
The accused was not present. There was
67600 lire.

Cross examined - I received a 252 on the
same day. My memory on ²⁷⁻¹ Dec was better than
than today. I made a statement
When accused banded me the bundle the
accused said to me "you had better look after this as well"

6

The examination - move
to the court - nothing.

R.P. 83(6) complied with.

5670076 Sgt J Ryan 76 Sec 5/13 Cur Police
is no longer in this theatre and is not available
as a witness.

Prosecution closed.

Defending off weeks motion no prima facie
evid on the following grounds:-
The 2nd & 4th charges no evidence before court
mosquito nets.

The 1st & 3rd charges nothing linking accused with
the deal with Brogi.

The articles described in all charges says
public property - no proof same.
R.P. 83(6) complied with

Pross open:-
apologize to court that Sgt Ryan is not
available.

The 1st & 3rd charges - Pagans states he acted
as intermediary for accused with Brogi.
accused offered blankets to Pagans. Brogi
made a deal for 23 blankets at 600 lbs
apiece. S/Cpl Russell gave evidence re conversation
with accused. accused had 67600 lbs in his
possession at that time. How does an absentee
for 2 or 3 months acquire so much money.
Brogi gave 14500 lbs for blankets similar to
that on table with certain minor differences.
Don't even say accused offered & sold the blankets
to Brogi. That he got them out of some public
stores. which accused should make some
exploration as to where he got those blankets
R.P. 83(6) complied with

LIST OF WITNESSES

- ✓ 1 Pagano Fabio, 21, Via del Quirinale, Rome.
- ✓ 2 Brogi Vittorio, Via Scipione No 134, Rome.
- 3 No 10547986 Pte C Hoy, RAOC att ADOS, Rome.
- ✓ 4 No 4394709 L/Cpl S Russell, 111 Provost Coy, CM Police.
- 5 No 5670076 Sgt J Ryan, 76 Sec, SIB, CM Police.

SUMMARY OF EVIDENCE

in the case of

Bl47829 Pte Charles Frederick TUTT, att fap Cdn Sec 1 Echelon AFHQ

Lowe
Wix
ja

FIRST WITNESS: Pagano Fabio, 21, Via del Quirinale, Rome.

I certify that due to the exigencies of the service including the expense and loss of time involved the attendance of this witness is not readily procurable. Two written statements purporting to be signed by this witness were read to the accused and included in this summary of evidence as Exhibits "A" & "B". The accused does not require the attendance of this witness for the purpose of cross-examination.

D. M. Rose Capt
Officer Taking Summary.

SECOND WITNESS: Brogi Vittorio, Via Scipione No 134, Rome.

I certify that due to the exigencies of the service including the expense and loss of time involved the attendance of this witness is not readily procurable. A written statement purporting to be signed by this witness was read to the accused and included in this summary of evidence as Exhibit "C". The accused does not require the attendance of this witness for the purpose of cross-examination.

D. M. Rose Capt
Officer Taking Summary

THIRD WITNESS: No 10547986 Pte C Hoy, RAOC att ADOS, Rome.

I certify that due to the exigencies of the service including the expense and loss of time involved the attendance of this witness is not readily procurable. A written statement purporting to be signed by this witness was read to the accused and included in this summary of evidence as Exhibit "D". The accused does not require the attendance of this witness for the purpose of cross-examination.

D. M. Rose Capt
Officer Taking Summary

FOURTH WITNESS: No 4394709 L/Cpl S Russell, 111 Provost Coy, CM Police.

I certify that due to the exigencies of the service including the expense and loss of time involved the attendance of this witness is not readily procurable. A written statement purporting to be signed by this witness was read to the accused and included in this summary of evidence as Exhibit "E". The accused does not require the attendance of this witness for the purpose of cross-examination.

D. M. Rose Capt
Officer Taking Summary.

FIFTH WITNESSES: No 5670076 Sgt J Ryan, 76th Section, SIB, CM Police. *D.W. Rose*

I certify that due to the exigencies of the service including the expense and loss of time involved the attendance of this witness is not readily procurable. A written statement purporting to be signed by this witness was read to the accused and included in this summary of evidence as Exhibit "F". The accused does not require the attendance of this witness for the purpose of cross-examination.

D.W. Rose Capt
Officer Taking Summary

Question to the Accused:

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

The accused declines to make a statement or give evidence.

Taken down by me in the field this 28th day of March, 1945, in the presence of the accused.

D.W. Rose (c)
Rules of Procedure 4(E) & (G) complied with.

D.W. Rose
(D W Rose) Capt
HQ 1 CBRGp
Officer detailed to take Summary of Evidence.

46th Action

Mexican Investigation Branch

Force of Military Police

Central Mediterranean Force

Office of the Commandant General 13th 1944

Ex A Summary

of evidence in case

13147829 PG JUD CF

Enforce Act

National of

PAGANO, FABIO

21, Via del Quirinale

ROME

Who states: I first met the Canadian

soldier of the 1st Airborne Regiment, by the name

of 'Charlie', about three months ago. He

had to come long day to my father's

house in Via Nettuno. He brother of

one of my father's friends, by the name

of BROGI brought some blankets and message

was from the soldier, at first, who

in fact he told me, I did not see

any blankets but I acted as witness

during the transition taking place, and Charlie

received 600 lire (six hundred) for blankets

about two days ago. Charlie and two other

Canadian brought five hundred blankets

to the house of UCCERLI at Via

della PARAFISSIONE, No. 63, and sold them

to the man who was selling the

blankets by UCCERLI. I do not know

whether he has sold the blankets

the man who was selling the

blankets by UCCERLI. I do not know

whether he has sold the blankets

the man who was selling the

blankets by UCCERLI. I do not know

whether he has sold the blankets

the man who was selling the

blankets by UCCERLI. I do not know

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whether he has sold the blankets

the man who was selling the

blankets by UCCERLI. I do not know

whether he has sold the blankets

the man who was selling the

blankets by UCCERLI. I do not know

whether he has sold the blankets

the man who was selling the

blankets by UCCERLI. I do not know

heard that Hiale and his friends have been
carried out business transactions upon other
occasions, but I do not know of any
~~particular instances~~

I have read over the
above statement, it is correct and true.

Labio Mamino Pagano.

Statement taken down, read over
and registered witnessed by Prof. Kegan, 76th
Section, S.I.B. on the 13th of December 1944

Ex B to Summary of Evidence to Section. S.I.B. C. M. F.
in case of C/17529 Pte Lutt CF. Rome. 18th Dec. 1944.

W/100 Capt
Ops Admin Summary

Statement by PAGANO FABIO, living in Via del QUIRINALE
N^o 21, Rome.

Delet

To-day the 18th of December 1944 at 14.30 hrs
I attended an Identification Parade in Via Galvani at the
request of the S.I.B. where I immediately recognised
a soldier whom I knew as "Charles" at the soldier whom
I introduced some time ago to BROCCO, when this soldier
had some ²⁰⁰ blankets to sell. The blankets were originally
offered to me, but I did not wish to buy them as
I knew them to belong to the Italian Forces.

I have known this soldier for some time and
although on previous occasions he has offered me
blankets I have always refused.

I have seen on other occasions the soldier who
accompanied "Charles" that day, but I do not know his
name. They frequently used to patronize my father's
Cafe together.

The above has been read over to me, and it is true
and correct.

Fabio Massimo Pagano.

Ex C to Summary of Evidence
in case of B 147829 Pte Tatt C7 76. Pajano. I. I. B. C. M. 1.
Whose Capt Roma 16 December 1944
Off taken Summary.

Richiarzajous di 13001 VITTORIO, residente in Via
SCIPIONE N° 134. Roma.

Circa una ventina di giorni fa mi trovavo al
Cafè Pajano in Via Nazionale quando il figlio del
Proprietario Fabio Pajano che era stato in conversazione
con due or tre soldati Lanciai venuti da me e mi
disse che questi militari avevano una quantità di coperti
da vendere e domandò a me se li volevo comprare.

Alla mia domanda a Pajano se le coperte erano
di provenienza dell'Army Salute egli mi disse che
non lo erano ed anzi uno dei soldati andò via e
ritornò circa 10 minuti più tardi con una coperta
sotto il braccio e Pajano che faceva da interprete
mi fece entrare nel retrobottejo dove guardai le
coperte e verificai che non c'era nessun segno e
che sembravano coperti civili accettai di comprare
circa una ventina e stabilii il prezzo con una
di questi militari a £ 600 per ogni coperto.

Dopo questo - militari mi disero di aspettare che
sarebbero ritornati col infante aspettai davanti alle
porte del Cafè per circa un'ora prima che arrivare,
con una macchina e mi invitarono al salotto con due
e un barman e casa mia.

Quando arrivammo i soldati presero le coperte
e loro una picchia alle macchine e li misero sopra
dentro del Portico di casa ed allora mi offrivano
fiume delle Langjans che accettai di comprare
e pagai ad una dei tre soldati £ 14.500, per tutto
lo scarto. Poi riconsegnai tutte le di questi militari
e li dissi di vendere una non si disse a chi consegnare
il denaro perché era già tutto e non feci conto.

La sopraescritta mi è stata letta in Tribunale e confermata
a Verità.
Vittorio Pajano

Obtained by the above read over and signed voluntarily
by Ex Pajano in the presence of Ex Pajano 7. Section I. B.
Roma. 16. 12. 44.

Dem

Statement of BROGI VITTORIO, living in Via Scipione n. 154,
Rome.

About twenty days ago I was at PAGANO's cafe in VIA NAZIONALE when the son of the owner FABIO PAGANO who had had a conversation with two or three Canadian soldiers came to me and told me that these soldiers had a lot of blankets to sell and asked me if I wanted to buy some.

To my question if the blankets belonged to the Allied Forces Mister Pagano assured that they didn't and then one of the soldiers left and was back within ten minutes with a blanket under his arm and Pagano who was the interpreter let me get in the back-shop where I looked at the blanket and satisfied that there was no mark and they seemed civil blankets I accepted to buy about twenty and I fixed the price with one of these soldiers for £ 600 for each blanket. After that the soldiers asked me to wait for them as they would be back and in fact I waited at the door of the cafe for about an hour till they arrived by car and asked me to get in the car with them and we went to my home.

When we arrived the soldiers took the blankets that they had in the back of the car and they placed them inside of the front-door and then they also offered me some mosquito-nets that I accepted to buy and paid to one of the three soldiers £ 14,500 for all the merchandise.

I could recognize all these three soldiers if I had to see them again, but I cannot state to whom I delivered the money because it was already dark and I didn't take any notice.

The above statement has been read back to me in Italian and it is according to the truth.

VITTORIO BROGI

I certify that the above translation from the original in Italian is to the best of my ability.

Auno de Bernardis
Official Interpreter

Ex D to Summary of Evidence
in case of B147829 Plot 67.

Whose Capt
Opp taken Summary Section

Small

Special Investigation Branch
 Corps of Military Police
 Central Mediterranean Force

2nd January 1945

Statement of:-

No. 10544486. Pte. C. HOY.

R.A.O.C. att. A.D.O.S.

ROME.

Who states:-

For the past two years I have been employed in Section R.C. of 3 B.O.D. and during that time I have continually dealt with the issuing and storing of W.D. blankets. On the 2nd of January 1945, I was shown 23 (thirty three) blankets in the store of 4th Section, S.I.D., by Sgt. RYAN, S.I.D. I identified all of these blankets as being W.D. Property, and identical to a number of types of W.D. blankets which are at present held in the A.D.O.S. Mess, ROME.

I have read over the above statement and it is correct and true.

Statement taken down, read over and signed
signature witnessed by Sgt. RYAN, 4th Section, S.I.D. on the 2nd of January, 1945.

Exp E to Summary of Evidence
in case of B147829 Pte Sutt C.F.
Dunlop Capt
off taken Summary.

Done

40th Section

Special Investigation Branch
Cops of Military Police
Central Mediterranean Force
Dec 22nd 1944

Statement of

No. 4394103, Lt Col S. ROSSER

40th Section

C.F. Police

Who states:

On the 13th of December, at
about 1100 hours, I was on duty in the
U.S. Army Military Police Headquarters (Old Quarters) when
a Canadian soldier was handed over to me by
P.F.C. OTTOVIANA of the 52nd M.P. Company, U.S. Army,
for interrogation, as he was suspected of
being an absentee. I questioned the Canadian
soldier and he informed me that he had
been absent from his Unit since last
September. He then handed me a large
sum of money and said "you had better
look after this as well". I then submitted
A.F.D. 252 of absence against this soldier
and handed him over to the 40th Section, S.I.B.
for interrogation.

I have read over the above
statement, it is correct and true.

L. B. Ryan

Statement taken down, read over and
signature witnessed by Capt RYAN, 40th Section, S.I.B., on the
22nd of December, 1944.

Ex 7 to Summary
of Evidence in case
No. 13147829 PG
Subj. C. F. *Dobson*

76th. Section,
Special Investigation Branch,
Corps of Military Police,
Central Mediterranean Forces.
Dec. 30th. 1944.

Copy taken Summary,
Statement of:-

No. 5670076, Sergt. J. RYAN,
76th. Section,
Special Investigation Branch,
Corps of Military Police,
Central Mediterranean Forces.

Who states:-

On the 13th. of December 1944, I took possession of the sum of 67,600 lire, which was handed to me by I/Cpl RUSSELL, 111 Provost Company, C.M.F.

On the 14th. of December 1944, as a result of information received, I went to Via Scipioni, No. 134, occupied by BROGI Vittorio, and there found 23 W.D. blankets and 35 pieces of mosquito nets. I conveyed this property to the S.I.B. Office.

I later saw the accused. I cautioned him and said to him "Did you sell any W.D. blankets and mosquito nets to an Italian civilian?" He replied, "I will tell you the truth". I again cautioned him and he made a statement which I took down in writing at his dictation and which he signed after having read over same.

I now produce this statement. *marked E4 F1*

In the field.
30-12-44.

J. Ryan.
J. RYAN, Sergt.
76th. Section,
Special Investigation Branch.

5-12-42

Mr. Tully, O.

Missing

4C-137

PTE TWAITES K/B

SCHEDULE.

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

Accused: U-6100 Pte Kenneth Bertrand Twaites, C.Y.R.

Charge.	Plea.	Finding.
(Insert "alternative" where applicable.)	(See Instrs p 2.)	(See note below.) (Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)(a)	not guilty	Not guilty of violation of Art. 15, UCMJ.
2nd		
3rd		
4th		
5th		
6th		

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

At present under sentence for 17 days beginning on (date) 3 Oct 44 (1)

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

Time in confinement awaiting present trial—a total of 17 days, of which 11 days were spent in hospital. (2)

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

Sentence Awarded by the Court:

To undergo two (2) years detention

(Sgd) W.A. Dolton 3 Oct 44 (Sgd) W.A. Dolton Judge-Advocate, if any. Date awarded. President. (RP 45, 50) (See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

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

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

Finding and sentence confirmed

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

(Sgd) F.S. Bernatchez Brig Date 6 Oct 44 Commanding 3 Cdn Inf Bde Confirming Officer.

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

Accused. Date. Signature of Offr.
U-6100 Pte Kenneth Bertrand Twaites 9 Oct 44 "J.P. Ensor Lt-Col"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

CERTIFIED TRUE COPY

(D.N. [Signature] Capt)

RECORDED AT CMHQ IN AB 100 4C-137

FIELD GENERAL COURT-MARTIAL (CP Form (in lieu of AFM) 10-7-60 (Rev 10-60))

Convened by Order of Brig F.S. Bernatchez Comd 3 Cdn dated 2 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/R or A/Appmt, if any, see AA 182, 183, fn 8, KR Can 308, 328, 330.)

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

U-6100 Pte Kenneth Bertrand Twaites C.Y.R.

PROCEEDINGS OF TRIAL (in lieu of AFM) 10-7-60 (Rev 10-60)

Held in the Fd in (country) TRINIDAD on (date(s)) 3 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fn 80s. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes" as to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

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

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

A5. President to accused: Do you object to W.A. Dolton as interpreter? Ans NO

The Interpreter is sworn. (1) Do you object to W.A. Dolton as shorthand writer? Ans NO

The shorthand writer is sworn. (2)

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

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

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

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

President Major W.A. Dolton
Member Capt C.F. Spence
Member Lieut R.H. Brown
Judge-Advocate Lieut W.D. Tweedier
Prosecutor Lieut W.D. Tweedier
Defending Offr W.D. McRath

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

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

(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused U-6100 Pte Kenneth Bertrand Twaites before arraignment make(s) (no) plea NO

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against the evidence, if any, and finding are recorded per Notes. For forms of record see references in fn 8 to RP cited. Insert in AS rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans. NO (4)

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use record alternative in para D6.)

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. NO (1) Do you intend to call witnesses on your behalf? Ans. NO

Are they witnesses as to character only? Ans. NO (1. RP 37(B). 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

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

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

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

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

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? (1) Ans. NO by any defending officer (2)

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

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

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

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

(1. When several accused tried separately see RP 47. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C-6100 Pte Kenneth Bertrand TWAITES, a soldier of the Canadian Army Overseas, on strength of Carleton and York Regt, is charged with:-

FIRST CHARGE
AA Sec 12(1)(a)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he

In Italy, on 9 Sep 44, having been warned for "front line" duty, absented himself without leave from 1945 hrs 9 Sep 44, until arrested at 1300 hrs 16 Sep 44, with intent to avoid such "front line" duty.

"E.A.A. Doiron" Major
President

"J.P. Essor"
(J.P. Essor) Lt-Col
Commanding Officer
Carleton and York Regt.

In the Field
26 Sept 44.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field
2 Oct 44

"J.P.A. Bernatchez, Brig"
Comdr 3 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

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

G-6100 Pte Kenneth Bertrand TWAITES C.Y.R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 03 Oct 44 endorsed by me, for by an offr of my staff for me, "To be tried by Field General Court-Martial".

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

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

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

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

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

PRESIDENT.

Major E. Doiron MBE R22R
(Rank) (Must be named. RP 106.) (Unit)

MEMBERS.

Capt C.F. Spence WMSR

Lieut R.M. Brown OTR
(Rank) (Named or detailed. RP 106.) (Unit)

WAITING MEMBER.

Lieut I. Cotton WMSR
(Rank) (Named or detailed, if any. RP 106.) (Unit)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy "E. Bernatchez" Brigadier
(Country) (Signed personally. RP 105 fn 2) (Rank)

Date 2 Oct 44 Commanding 5 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/3BA (FAO in lieu of AFAS: 40/7 & 8, Rev 14031)

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

"ERAD"

"E.A.S. Deiron Major
President

MEDICAL OFFICERS CERTIFICATE

RM(CAN) PARA 327

I certify that I have this morning examined
No C-6100 Pte Twaites K.
of the Carleton & York Regiment and in my opinion he is
fit to undergo Trial by Court Martial.

Station In the Field

Date 3 Oct 44

"W.B. Lang Capt" Capt
Medical Officer
R.M.C. Carlt & York Regiment

1st witness for the prosecution

G-4412 L/Cpl Dyer B.E. of "C" Coy Carleton & York Regt having been duly sworn states on the 9th of September at 1700 hrs I was warned we were moving forward into action I called my section together Pte Twaites was present I warned him that we were moving forward into action at 1945 hrs, at 1945 hrs I checked my section just before moving off Pte Twaites was absent. I checked when we got forward Pte Twaites was still absent, on the 10th I was evacuated and Pte Twaites was still absent. I am sure that when I warned my section he heard me.

No cross Exam

Question by the Court

Did Pte Twaites make any comments when you warned your section

Answer
No.

R.F. 83(B) complied with

2nd witness for the prosecution

G-17415 G.S.M. Cox, C.A.A. of "C" Coy Carleton & York Regt having been duly sworn states: Sir, at about 2000 hrs the 9th Sept 1944 Pte Twaites was reported absent to me by his Pl Sgt, I next saw Pte Twaites at Coy Commanders Orders. I hereby submit Certificate of apprehension. This document came to me through the proper channels.

Certificate of arrest accepted & marked Exhibit "A"

No Cross Exam

Question by the Court

Can you give the approx time at which you saw the accused.

Answer

I can state that I did not see him again until this rest period

R.F. 83(B) Complied with

"BAAD"

2
Accused G-6100 Pte Kenneth Bertrand Twaites having been duly sworn states:

Question by the defending Officer

1st question

Did you ~~XXXXXXXX~~ hear L/Cpl Dyer warn your section to be ready to move?

Answer

No Sir.

2nd Question

Did you know your company was moving on the evening of the 9th of September?

Answer

No Sir.

3rd question

Why were you not present when your company moved?

Answer

I had a slight case of dysentery and went down to relieve myself.

4th question

Why didn't you rejoin your company?

Answer: It was dark air, and I did not know where they were. Going and then I was afraid of a desertion charge being placed against me.

Cross examination for the transcript

1st question: were you in your section locality between 1000 hrs and 1600 hrs on the 9th of September.

Answer: No Sir, not in the section area but I was in the company but I was in the company area.

2nd question--can you tell me why you were not in the section area for a brief period of time between 1600 hrs and 1800 hrs?

Answer--I wasn't given orders to stick close by, so I thought it would be alright to wander around.

question---did you see any sign of preparation for the move that evening?

Answer--there were none that I could see Sir.

4th question -- I hear you were away relieving yourself were you within sight of the Coy area?

Answer--No Sir.

5th question--approx how long did you spend relieving yourself?

Answer--quite some time Sir, approx twenty or twenty five minutes.

6th question--where did you go when you found the Coy had left?

Answer--I said before I was afraid of a desertion charge being placed against me so I made my way to the highway Sir.

7th question--did you make any attempt to find the company again?

Answer--No Sir because I didn't know where to begin.

8th question--since you did not attempt to find the company again what did you intend doing?

Answer--I didn't know what was going to become of me so I went ahead without leave.

M.P. 8312) completed with.

1/Cpl Dyer, R.A. of No. Coy, Carlton & York next having been recalled:

questions by the court.

1st question--at 1700 hrs on the 9th of September when you called your section together did you see the Twites present at that time?

CLOSING ADDRESS BY DEFENCE

"READ"

The case hinges on whether or not the accused heard the warning order if L/Cpl Dyer called his section together checked them, and gave them formal orders of a move he did a thing that is very seldom done in the field. Usually orders are given to a section in a very informal and careless manner. If there can be no doubt as to whether the whole section could definitely hear the orders, why hasn't the Prosecution brought in more witnesses to show how completely those orders were issued. Twites says he did not hear the orders. There is a very real doubt as to whether he could or did.

As to where the accused was when the orders were issued, he doesn't know where he was. To use his own expression he was "wandering" about the coy area. He would have no reason to remember a particular 10 minutes of that day when he did not know that orders were to be, and were, issued at that time, can any member of the court say exactly where he was at 1700 hrs 9 Sep 44.

When the coy moved it was dark. The accused, still moving, informally took time out to go to the latrine, and took his time since he had no reason to hurry. In the darkness it is quite possible for a simple operation like the moving of a coy in the field to take place without his knowledge.

When the accused found the coy gone, he panicked. There was no formal plan, behind his going AWL. He didn't know which way to look for his coy and alone in the dark, fearing a desertion charge, he left for the rear without a formal plan. Therefore this is an AWL charge, not an effort to avoid action, not desertion.

"READ"

"W. McGrail" Lt.

CLOSING ADDRESS BY PROSECUTOR

The evidence of the prosecution's witness has proven the charge of desertion beyond a reasonable doubt.

"READ"

PLEA IN MITIGATION

This case was based on one man's word against another's. Although the court saw fit to find the accused guilty I don't think the court can feel free to give a heavy sentence, since some doubt must remain.

"W McGrail" Lt

Plea in mitigation of punishment

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 133(1)(4)

I certify that

No.C/6100 Rank Pte Name TWAITES KE

of the "C" Company THE CARLETON
AND YORK REGT was arrested at ANCONA
at 1300 hours, on the 16th day
of SEPTEMBER 1944

Signature of officer into whose custody
the above named person was taken on
arrest

(Sgd) "undecipherable" Major

Appointment RFM

Commanding 183 Provost Coy (Ports) OMF

Date 17 Sep 44.

"E.A.A. Doiron" Major
Pres "A"

Ex B*
"Laa"

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
06100	Pte	Kenneth, Bertrand Twaites	Carleton & York

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

NOTE—At a trial by field general court martial the summary may be cancelled from the field conduct sheet.

The summary sheet mentioned should be produced in court with the charges but not submitted to the proceedings.

See para. 47, R.D., 1906

The summary sheet stated should correspond with the number of entries in the conduct sheet. Penalties to be given in the field service officer's report, and to be pronounced special awards of gallantry or distinguished conduct.

Instructions—If the charge is for drunkenness, the conduct sheet should be filled separately and dated.

	* Within last 12 months.	* Since enlistment.
For Sec 15(1) AA AWL	(1) times	9 times
For Sec 40 AA	(1) times	(3) times
For Sec 11 AA	(-) times	(1) times
For Sec 8(2) AA	(-) times	(1) times
For _____	_____ times	_____ times

Number of instances of gallantry or distinguished conduct,
or
There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or

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

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

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

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

6. The date of his ~~XXXXXX~~ attestation specified in his record of service is 3 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 3 mos

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

9. The accused is entitled to reckon 4 1/2 yrs service for the purpose of determining his pension, etc.

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

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

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

MAA Dairon Major"
President

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163(1)(11)

I certify that

No.C/6100 Rank Pte Name TWAITES KB

of the "C" Company THE CARLETON
AND YORK REGT was arrested at ANCONA
at 1300 hours, on the 16th day
of SEPTEMBER 1944

Signature of officer into whose custody
the above named person was taken on
arrest

(Sgd) "undecipherable" Major

Appointment APM

Commanding 183 Provost Coy (Ports) CMP

Date 17 Sep 44.

"E.A.A. Deiron" Major
Pres "A"

This is exhibit "A" referred to in the Summary of Evidence
in the case of C6100 Pte Twites, K.B., Carleton & York
Regt, taken down by me on 26 Sep 44.

(Sgd) "C.E. Senechal Lieut.
Officer Taking the Summary of Evidence

Ex B
-Caal

Statement as to Character and Particulars of Service of Accused.

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

C6100 Pte Kenneth, Bertrand Twaites Carleton & York

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

NOTE.—(1) A copy of this summary must be furnished to the accused if he so requests. (2) The conduct sheets mentioned should be produced in court with this statement but not referred to in the proceedings.

† See para. 377, A. G. O., 1940.

* The summary herein stated should be corrected with the approval of the commanding officer, if necessary, in any case where the entries are incorrect or where the entries are not in accordance with the facts of the case.

	* Within last 12 months.	* Since Enlistment.
For Sec 15(1) AA AWL	(1) times	9 times
For Sec 40 AA	(4) times	(3) times
For Sec 11 AA	(-) times	(1) times
For Sec 8(E) AA	(-) times	(1) times
For	times	times
Number of instances of gallantry or distinguished conduct.		
There are no entries in the conduct sheets of the accused.		

2. The accused has not been previously convicted, or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

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

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

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

6. The date of his attestation specified in his record of service is 3 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 3 mos

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

9. The accused is entitled to reckon 4½ yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)): GVSM & Clasp

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

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

MAJOR DOIRON
President

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army

No. C. 6100 Rank Plt Name Walter A. B. of Coast Signal Regiment (or as the case may be)

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

Description of court by which trial, or summary order dispensed with, or AA 45, or other order dispensed with, pending with trial	Date and place of trial, or summary order dispensed with trial	Charge upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority, giving of the charge, or order of the dispensing authority	Punishment remitted
/				

(INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

In the rank of _____ years
 In the rank of _____ years
 In the rank of _____ years

Date of Promotion.

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

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.
 Signed this 31st day of Oct 14

Wm. Stock
Plt. Quartermaster

Prize	Date of offense	Rank	(Name of drummer)	OFFENSE	Names of Witnesses	Punishment awarded	By whom awarded	Remarks
1st Major	11-V-V	Major		1000 2359 km 11-V-V to 0830 km 11-V-V	Sgt. Robinson	10 days C.B.	Major Boyer	for 2 days pay, 50¢
1st Sergeant	5-V-V	1st Sgt.		2000 2200 km 5 days 11-V-V to 11-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	admonished	1st Sgt. Robinson	
1st Sergeant	19-V-V	1st Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
2nd Sergeant	19-V-V	2nd Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
3rd Sergeant	19-V-V	3rd Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
4th Sergeant	19-V-V	4th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
5th Sergeant	19-V-V	5th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
6th Sergeant	19-V-V	6th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
7th Sergeant	19-V-V	7th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
8th Sergeant	19-V-V	8th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
9th Sergeant	19-V-V	9th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	
10th Sergeant	19-V-V	10th Sgt.		2000 2200 km 19-V-V to 19-V-V order to the post of good order and discipline. See also company to a company.	Sgt. Barclay Sgt. Carlin Sgt. Smith	10 days C.B.	1st Sgt. Robinson	

No C-6100

Name Twadites K B

Sgt, Battery,
or Company

Corps CIC

Date of
enlistment

3 Men 40

GC
BadgesService or
Proficiency PayB. M. 122
B. M. 122MFM 6
(AFB 122)
40/PAS/126 (3428)Date of last entry in
Company Conduct Sheet

4/9

No and date
of last drunk

N/A

Period not reckoning towards
freedom from extra fine

Sheet No

Signature OC
Company, etc200
President

Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			20 40 A.A.						
Camp Borden	2-10-40	Sgt		Last sheet destroyed 2-9-40 conduct to the plug etc can that be at Camp Borden on 23-10-40 when reduced to double by Sgt. Thompson refused to do so.	1st MacLellan Sgt Thompson	12 days det.	22-10-40	Major Hall	for 14 days pay 1940 1941
Front	6-5-41	Sgt		work 2415 hrs 6-5-41 to 6-5-41 hrs 8-9-41	see evidence Sgt Davis	28 days det.	15-9-41	Major Milburn	for 24 days pay 1941 1942 for 12 days pay 1941 1942
Camp Borden	12-5-41	Sgt		work 6615 hrs 12-5-41 to 6-5-41 hrs 12-5-41 1 day 20 hrs 20 min work 1215 12-5-41 to 6-6-41 hrs 12-5-41	1st Holmes 1st Cooper Sgt Davis 1st Jamieson	7 days C.B.	19-5-41	Capt. Kiefer	3 days pay 1941 1942
						7 days C.B.	16-8-41	Capt. Lane	for 14 days pay (1940) 1941 1942

143. V

Pte. TWEEDHOPE, H.O.

143-V
5

Army Form A.3.

Correspondence to be PINNED here.

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

PROCEEDINGS.

A.

On Active Service, this seventeenth day of January, 1945, Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

* Omit if not applicable.

~~I am unable to appoint:—~~

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

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

for the following reasons, namely:—

Vertical stamp: PROVINCIAL JUDICIAL...
Handwritten: Mrs. G. L. ...
Date: 1 Feb 45

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

President.

Rank.	Name.	Regiment.
Lieut. Col	D. L. Redman	Calg. Highrs

Members.

Rank.	Name.	Regiment.
A Major	from	1 Cdn. Gen. Pioneer Coy
A Lieutenant	from	1 Cdn. Gen. Pioneer Coy
A Lieutenant	WAITING MEMBER	1 C.M.G.R.U. Coy

*Signed by *G. L. ...* Colonel

Commanding Group, Cdn. Reinf. Units. Convening Officer.

Handwritten signature: *M. H. ...*

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

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-62276 Private TWEEDHOPE Herbert Oliver 1 C. Scot. R. 3 C.D.I.R.U.	First Charge ----- A.A. Sec. 15 (1)	Guilty	Faulty	
	Second Charge ----- A.A. Sec. 24 (2)	"	"	I confirm the findings and sentence of the court.
	Third Charge ----- A.A. Sec. 41 (5)	"	"	W. H. Barber 18/1
	See Charge Sheet attached. a period of Fifteen (15) months and to be put under stoppage of pay until he has made good (1) the sum of £2-13-5 the expense of his apprehension and (2) the sum of £8-8-4½ the value of his kit lost by neglect 18 Jan 1943 MW	Sentence to undergo detention for		

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

Answer (to be recorded on separate sheet if necessary) :-

Signed: W. H. Barber (Colonel) (Signed) M. M. W. W.
Commanding "D" Group, C.E.H. Confirming Officer (e) President.

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

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

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

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

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

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

I certify that the above Court assembled on the 18th day of January 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of
President as to
proceedings.

I also certify that :-

1. The members of the Court
2. The witnesses
3. The interpreter
4. The officers under instruction

* Omit if not applicable.

were duly sworn.

Signed this 18th day of January 1943

M. M. W. W.
President of the Court Martial.

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

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

C.
Certificate in
case of death
sentences.

Signed this _____ day of _____ 19 _____

M. M. W. W.
President of the Court Martial.

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

D.
Confirmation.

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

Signed this 18 day of Jan 1943

W. H. Barber
Confirming Officer.

Promulgated and extracts taken in the case of K62278 Pte Tweedhope H.O.

(a) (Dated) 18 January 1943 (Signed) M. M. W. W.

Promulgated and extracts taken in the case of _____

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of _____

(Dated) _____ (Signed) _____

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

CHARGE SHEET

The accused, Regimental number K-62278 Private HERBERT OLIVER TWEEDHOPE, Canadian Scottish, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, a soldier in the Canadian Army (Overseas) is charged with:

When on Active Service, absenting himself without leave

in that he

First CHARGE
AA 15(1)
in the Field did absent himself without leave from 0800 hours the 29th day of August 1942 until apprehended by Civil Police at York at 1020 hours on the 7th day of January 1943. Cost of apprehension £2-13-5.
Total time absent 131 days, 2 hours, 20 minutes.

Second CHARGE
AA 24(2)
When on Active Service, losing by neglect his arms, equipments, clothing and regimental necessaries

in that he

in the Field did lose by neglect his arms, equipment, clothing and regimental necessaries to the amount of
£11- 1- 8 $\frac{1}{2}$ (100%) £8- 8- 4 $\frac{1}{2}$ (75%).

THIRD CHARGE
AA 41(5)
When on Active Service, committing the Civil Offence of Stealing

in that he

did steal the sum of £8-0-0 (Eight pounds) from Mrs RODGER, 54 Seamore Street, Largs, Scotland.

J. A. McIntosh Colonel.
(J.A. MCINTOSH)
Commanding Officer,
3rd Cdn. Div. Inf. Reinf. Unit.

Dated in the Field this
16th day of January 1943.

To be tried by Field General Court Martial

In the Field
17 Jan. 43.

Walter Basher
Walter Basher) Colonel
Commander
"D" Group, Cdn. Reinf. Units.

W. W. W.

3, CAN. DIV. INF? REINF. UNIT

18 Jan 43

TO WHOM IT MAY CONCERN:-

This is to certify that I, the undermentioned Medical Officer for 3, C.D.I.R.U., have medically examined the U/M and find him fit to stand trial by Courts Martial.

K-62278 Pte. Tweedhope, H. O.

R. Hanna Capt.
Medical Officer, 3, C.D.I.R.U.

R. Hanna

I assigned \$25.00 pay to my mother. There were
also two sisters aged 17 and 18 and brother 15.

My mother had no money except \$40.00
per month from Gov. Gov't. I applied for
dependent allowance. It was refused.

I applied for compassionate discharge June 1940.

I didn't receive. In ~~Oct~~ Nov 1941 I went
East and beyond Rly. as an R.P. I went
to Wash in May 1942 and came to Kentland
in June 1942. There was financial trouble
at home. I got no promotion altho an R.P.
and R. and duty, recruits. The CGM
said I would be likely if I ever saw
the field again. I could not return and
decided to go W. and west my way
to Canada. at Long we heard that
1st Div was going overseas. we took \$8.00
to get us back. we kept our address
I CD in a unit was Rodgers. we intended
to send him the money but got pulled up.
before we had chance. we helped in Bltch
at York on Dec 23, 42. I got flu or I would
have been under before apprehension.

Security officer's plea in mitigation
is attached and initialed.

R. W. M. T. S.

Immediately someone else whom he has
trained gets the stripes to which he was
entitled. He is put on the Parade square
which is the usual thing for men
in the holding unit. You must realize
that a holding unit is not the sort of
place that a good soldier who wants to
stay a good soldier can stay without feeling hurt
& thoroughly browned off. Things happen
to his mind. Couple that with news from
home, which is not good. In the holding
unit a man is just part of a machine. He
is hardly an individual like he is in the
field. He doesn't get the same consideration
nor the same help from his superiors.
Therefore troubles are multiplied in a man's
mind. It doesn't take much for a man to
go haywire so much so that you can
easily see the workings of a man's mind
when he finds someone else thinking as
he does. They went A. U. L. H.

On his own statement & that of his
Chum Zepiah, they worked while on their
~~leave~~ ^{absence}. Work, action & something to
occupy their minds was what they were
after. Not to escape those things. They
werent getting them in the Army.

Coming to the last charge of of-
fealing. I consider that they were
victims of circumstances. Hearing of
possible action, they wanted to get back
to their units. Money was required, there
it was. - they could pay it back. As
proof that they werint afraid to have
their names brought up they left their
Reg. No. & Unit.

Chas. J. Bowen
Lieut
M

SUMMARY OF EVIDENCE

in the case of

Regimental number K-62278 Private HERBERT OLIVER TWEEDHOPE, Canadian Scottish Regiment, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, a soldier in the Canadian Army (Overseas).

The evidence is taken under oath by the direction of the Officer Commanding.

FIRST WITNESS
Prosecution
Documentary

I produce AFB 115 (Certified Copy of the Record of Court of Inquiry) which relates to the accused, whom I now recognize.

This form is attached to the Summary of Evidence and marked "Exhibit 'A'".

The evidence is read to the accused.

The accused declines to cross examine the witness.

SECOND WITNESS
Prosecution
Documentary

I produce a Certified Copy of Part 11 Orders which shows the accused, whom I now recognize, absented himself from 0800 hours on the 29th day of August 1942.

This document is attached to the Summary of Evidence and marked "Exhibit 'B'".

The evidence is read to the accused.

Accused declines to cross examine the witness.

THIRD WITNESS
Prosecution
Documentary

I produce a Descriptive Return (A.F.O.1618) relating to the accused, whom I now recognize, purporting to be signed by H. MILLS Esq., Committing Magistrate.

This return is attached to the Summary of Evidence and marked "Exhibit 'C'".

The evidence was read to the accused.

The accused explains ~~xxx~~ "The Documentary Evidence regarding apprehension is correct, but, I informed the Canadian Provost Corps voluntarily as to my whereabouts."

FOURTH WITNESS
Prosecution

Regimental number F-40807 Corporal CHUTE G.W. (Regimental Provost) Highland Light Infantry, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, having been duly sworn, states as follows:-
"Regimental number K-62278 Private TWEEDHOPE H.O., Canadian Scottish Regiment, No. 3 Coy, 3rd Canadian Division Infantry Reinforcement Unit was apprehended at York at 1200 hours on the 7th day of January 1943 and was returned to Guard Room at 3rd Canadian Division Infantry Reinforcement Unit under escort of the Canadian Provost Corps at 1230 hours on the 11th day of January 1943."

The evidence is read to the witness.

The accused declines to cross examine the witness.

FIFTH WITNESS
Prosecution
Documentary

I produce a certificate purporting to be signed by the Officer who issued the transportation warrants for the return of the accused and his escorts showing the costs of apprehension of the accused, whom I now recognize.

This certificate is attached to the Summary of Evidence and marked "Exhibit 'D'".

The evidence is read to the accused.

Accused declines to cross examine the witness.

mm

SUMMARY OF EVIDENCE (cont'd)

Page 2.

SIXTH WITNESS
Prosecution
Documentary

Lieutenant F.E. GILES, Quartermaster, (Regina Rifle Regt) P.E. "A" Wing, 3rd Canadian Division Infantry Reinforcement Unit, states as follows having been duly sworn:
"I inspected the kit of K-62278 Pte. TWEEDHOPE H.O., on the 12th day of January 1943, and found the following articles missing:-

	100%	75%
Badges, cap	1	6
Brushes, blacking	1	10
Dressing F/F	1	5-3
Vests, woollen	1	1-1 $\frac{1}{2}$
Vests, gym	1 pr.	1-6
Shorts, gym	1 pr.	1-6 $\frac{1}{2}$
Drawers, cotton	1	7 $\frac{1}{2}$
Ointment A/G	1	1-2
Eyeshields A/G	4	1-6
Glengarry	1	16-1 $\frac{1}{2}$
Boots, ankle	1 pr. 1-1-6	2-6
Shoes, canvas	1 pr. 3-4	
Blanket 1098	1	17-8
Capes, A/G	1	4-6
Cases, pistol	1	10 $\frac{1}{2}$
Lanyard, pistol	1	1-2
Pistol, S & W .38.	1	3-7-10 $\frac{1}{2}$
Handcuffs	1 pr. 10-4	7-9
Total.	£8-11-9	£6-9-11

As per Ordnance Scale value 100% - £8-11-9. 75%
£6-9-11.

The evidence is read to the accused.

Accused declines to cross examine the witness.

SEVENTH WITNESS
Prosecution
Documentary

I produce a report from Special Investigation Service - Canadian Provost Corps, London, purported to be signed by H-13260 Sgt. HOLME G.S., containing a statement made by the accused.

This report is attached to the Summary of Evidence and marked "Exhibit 'E'".

The evidence is read to the accused.

Accused declines to cross examine the witness.

The accused, having been duly warned in accordance with the Rule of Procedure 4(E), reserves his defence.

Taken down in the hearing and presence of the accused.

Certified that the Rules of Procedure 4(c)(d)(e)(f)(g) have been complied with.

W. J. Robinson

Captain - 2/10 DRAGOONS.
3rd Cdn Div Inf Reinf Unit.
Officer detailed to take Summary
of Evidence.

Dated in the Field,
this 16th day of January 1943.

W. J. Robinson

DECLARATION

RECORD of the Declaration of a Court of Inquiry assembled at Aldershot on the 25th day of September 1942 for the purpose of investigating and recording the absence without leave from his duty, and deficiencies, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries of Clothing of No. K-62278 Pte. TWEEDHOPE H.O. C. Scot. R. (No. 3 Coy) reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit.

The Court declare that K-62278 Pte. TWEEDHOPE H.O., Canadian Scottish Regiment, No. 3 Coy, reinforcement on the strength of the 3rd Canadian Div Infantry Reinforcement Unit illegally absented himself without leave in the Field at 0800 hours on the 29th day of August 1942, that he is still absent and that on the 25th day of September 1942 he was deficient, and that he is still deficient of the following articles:-

		100%		75%
Anklets, web	1	3- 5 $\frac{1}{2}$		2- 7 $\frac{1}{2}$
Badges, Canada	1	11		9
Badges, cap	1			
Battle dress trousers	1	1- 7-11		1- 0-11 $\frac{1}{2}$
" " blouse	1	1- 7- 8		1- 0- 9
Boots, ankle	2	2- 3- 0		1-12- 3
Boot polish, tin	1			
Boot laces, pr	1	1 $\frac{1}{2}$		1
Brasses, button	1	2		1 $\frac{1}{2}$
Brushes, button	1	8		6
hair	1	1- 1		10
Discs, identity	2			
Drawers, cotton	2	4- 1		3- 1
Dressing F/F	1	1- 1		10
Knives, clasp	1	5- 2 $\frac{1}{2}$		3-11
Denim blouse	1	12- 9		8-10
trousers	1	11- 9		9- 7
Razor	1	1-10 $\frac{1}{2}$		1- 5
Shirts, flannel	2	18-10		14- 2
Shoes, canvas	1	2- 3		1- 8 $\frac{1}{2}$
Socks	2	3- 4		2- 6
Towels, hand	2	1-11		1- 6
Frogs bayonet	1	1- 6		1- 1 $\frac{1}{2}$
Slings, rifle	1	1- 4		1- 0
Eyeshields A/G	6	2- 3		1- 9
Respirator				
Container	1	4- 4		3- 3
Disc, identity, red	1			
Facepiece	1	8- 6		6- 4 $\frac{1}{2}$
Haversack	1	6- 6		4-10 $\frac{1}{2}$
Line whipcord	1			
Outfit A/D	1	2 $\frac{1}{2}$		2
Sealdisc (lead)	1			
Gym shorts	1	1-11		1- 6
vest	1	1- 6		1- 1 $\frac{1}{2}$
Ointment A/G	2	1- 7		1- 3
Capes A/G	1	1- 3- 6 $\frac{1}{2}$		17- 8
Wallets A/G	1	1- 5 $\frac{1}{2}$		1- 0 $\frac{1}{2}$

£11- 1- 8 $\frac{1}{2}$ £8- 8- 4 $\frac{1}{2}$

The Court has no evidence of the value of the unexpired wear of the listed articles but find that 75% of the value of the vocabulary cost of same is in total £8- 8- 4 $\frac{1}{2}$

Names of President and Members:- (SIGNED) A.S. GREGORY (Major)
Regina Rif 3 C.D.I.R.U.
President
(SIGNED) G.F. HENDERSON (Capt)
R. Wpg Rif Member 3 C.D.I.R.U.
(SIGNED) F.K. STONE (Lieut)
I C. Scot. R. 3 C.D.I.R.U.
Member

I CONCUR IN THE FINDING OF THE COURT (SIGNED) J.A. MCINTOSH (Lt-Col)
A/Commanding Officer
3 Cdn Div Inf Reinf Unit.

"CERTIFIED A TRUE COPY"

R. Gray (Capt)
(R.F. GRAY) (SON)

M

3 CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT

EXHIBIT B

The following are extracts from 3 Cdn Div Inf Reinf Unit's
Pt. 11 Order No. 232, d/1 Oct 42, page 3, para 10.

K-23075 Pte. Gojsich, E.
C SCOT R

F. Having been found to be illegally
3 Coy. absent from 0800 hrs 29 Aug 42 and
deficiencies in kit amounting to
£7- 9- 3¹/₂, is SOS as a deserter wef
25 Sep 42. (Auth: Approved Court of
Inquiry d/25 Sep 42) Forfeits 28 days
Pay FR&I 149(1)(a).

K-62278 Pte. Tweedhope
C SCOT R

H.O. Having been found to be illegally
3 Coy. absent from 0800 hrs 29 Aug 42 and
having deficiencies in kit amounting
to £8- 8- 4¹/₂, is SOS as a deserter wef
25 Sep 42. (Auth: Approved Court of
Inquiry d/25 Sep 42) Forfeits 28 days
Pay FR&I 149(1)(a).

CERTIFIED TRUE COPY:
13 Jan 43.

W. E. Thorne
W. E. Thorne, Captain,
Records Officer
3 Cdn Div Inf Reinf Unit. *WJ*

Descriptive Return of Private K.62278 TWEEDHOPE Herbert Oliver was apprehended at 24 De Grey Street, York, on the 7th day of January 1943, and was committed to confinement at York (pending escort) on the 7th day of January 1943 as a Deserter (or Absentee without leave) from the ~~XXXXXX~~ 3rd C.D.I.R.U. Canadian Forces ~~XXXXXX~~ of stationed at Aldershot.

Age 22 Height 6 feet 0 inches.
 Complexion Fresh Hair Brown Eyes Blue
 Marks In uniform ~~or plain clothes~~ Uniform

Probable date and place of attestation. British Columbia 23/9/39.
 Probable date of desertion or beginning of absence and from what place. August 28th 1942
 In the field, Aldershot.

Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.

on which the Prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

At 10-20a on Thursday January 7th 1943, P.C. Barlow of the York City Police called at the house, No 24 De Grey Street, York, and there saw the soldier Private Tweedhope, knowing that Tweedhope was absent from his unit since August 28th 1942. P.C. Barlow arrested him and conveyed him to the Police Office and he was detained there.

I do hereby Certify that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an ~~absenter from~~ the before-mentioned Corps.

J. Mills Signature of
Ce. House Residence of
Woodford Leeds Post Town of
 7th January 1943. Date of Signature.

H. Tweedhope Signature of Prisoner.
Robert Barlow Signature of Informant.

Or, where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming:

I hereby certify that the above named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature of
 Residence of
 Post Town of
 Date of Signature.

"It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the Return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

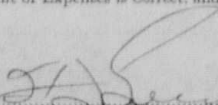
MM

Expense Voucher Re--:

Ref: K R. & O. (Can) 538 *53803*Reg. No. *K62278* Rank *Pte* Name *Woodhouse, H.O.* Unit *30 AIRU*The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~
~~Unit~~ *London from York*

Date	Particulars	Amount	
<i>10 Jan 43</i>	Escorts return fare from LONDON To <i>York</i>	<i>18</i>	<i>11</i>
	Prisoners single fare to LONDON From <i>York</i>	<i>14</i>	<i>6</i>
	Prisoners fare from _____ To _____		
	Escorts & Prisoners expenses for the Meals, Bus fares	<i>10</i>	<i>0</i>
	Total £	<i>2</i>	<i>135-</i>

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



Lieut.

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


EXHIBIT E

CANADIAN PROVOST CORPS

FILE REFERENCE

COMPANY. S.I.S. FORMATION. C.M.H.Q. CORPS.

LOCATION. London DATE. Jan. 9th. 43.

SUBJECT: Re: K-23075 Pte. GOJSICH Peter (alias Sgt. Peter STEVENS)
K-62278 Pte. TWEEDROPE H. (alias Sgt. Donald GRAHAM)
No. 3 C.D.I.R.U.
(a) A.W.L.
(b) False Pretences
(c) Larceny

File Numbers
W2/SIS/F/1-11

1. Further to marginally noted report, Pte. TWEEDROPE was arrested by the civil police at YORK on the 7/1/43, he was returned to Det. Eka. at No. 6 Cdn. Provost Coy. LONDON, and interviewed by the undersigned in the a.m. 9/1/43. The following statement was volunteered by this soldier, and signed in the presence of the writer.

Statement of K-62276 Pte. TWEEDROPE Herbert Cliver - No. 3 Coy. 3 CDIRU.

"I have been warned by S.P. HOLME that I need not say anything. I hereby make the following statement of my own free will and accord." - signed - H.C. TWEEDROPE
"On or about the 30th. August 42, I was stationed at SALAMANCA Eka. Aldershot, No. 3 Coy. 3 CDIRU, from which point I went A.W.L. with Pte. Peter GOJSICH, of the same Unit. We proceeded to HORSBAM, Ex., where we spent two days with friends by the name of VOICES, residing at 37 CAMBRIDGE Rd. From here we proceeded to LONDON where we spent several days, we then hitch hiked to TADCASTER and on to YORK. We stayed here for about nine days with a Mrs. MAUD, at 24 DeGREY St. On leaving here we went to COCKENMOUTH, CUMBERLAND, and north to ANNIAN, DUMFRIESHIRE, SCOTLAND, we remained here for about a month with a Mrs. SMITH, 16 CHE BUTE. At this time we secured employment on a farm at "PRESTONFIELDS", owned by a Mr. GRAHAM. We then went to "HOWGILLSIDE FARM", and stayed for about ten days with Mr. GRAHAM's brother. We proceeded north, through GLASGOW, to HOLYTOWN, and stayed there three weeks with Mr. and Mrs. E. SINCLAIR, I do not remember the address. Leaving here we proceeded through FAISLEY to JOHNSTONE, and stayed at the home of a Mr. William BROWN, the NEW SCHULE, for about a month. We proceeded to KILBARNIE and stayed with a Mrs. SMITH, I do not remember the address, for about a week or so. We then went to LARGS, where we secured accommodation from a Mrs. RODGER, 54 SEAMORE St. We stayed here for a week, and as we did not have sufficient funds to meet our board bill of Three pounds, we decided to leave immediately. We were posing as Sgt. Peter STEVENS, and Sgt. Donald GRAHAM, I assumed the latter name. On departing we took Eight pounds, in one pound notes, from a cupboard in Mrs. RODGER'S living room. We returned to Mrs. MAUD'S residence at 24 DeGREY St. YORK, where I spent the remainder of my absence. I was arrested on 7th. Jan. 43 by the civil police at YORK, at Mrs. MAUD'S address! - signed - H.C. TWEEDROPE.
Witnessed - G.S. HOLME Sgt. SIS.
9.1.43.

Previous Report
London 6/1/43

Diary Date

2. From the contents of the above it would appear that both GOJSICH and TWEEDROPE have given an accurate account of their activities, together with a complete confession in regard to the marginally noted offences. These men are being returned to their Unit for necessary disciplinary action. May a copy of this report be forwarded to the Unit concerned for their information and necessary action.

HANDED OVER:

London.
5-1-43

mm

Herbert Cliver
Sgt.
(K-13260 Holme G.S.)SIS.



O.C.
No. 3 C.D.I.R.U.

1. Forwarded for your information with copy of S.I.S. report dated 6 Jan. 43 attached.
2. Gojsich was remanded at London from day to day since 6 Jan. 43 as the civil police at Largs were communicated with to ascertain what action they wished to take concerning the civil offence of larceny admitted by him. They have now advised us that they informed the Procurator Fiscal who has decided that the matter could be better handled by a military court, and this charge should be taken into consideration when any military charges were being proceeded with.
3. Original statements made by Gojsich and Tweedhope will be retained at this office pending instructions as to their disposition. Both men will be returned to their unit on 11 Jan. 43.

London.
11 Jan. 43.

R. C. Hisley
 (R. C. Hisley) Major.
 Asst. Provost Marshal
 & O i/c S.I.S., C.M.H.Q.



*9/5976 sent
O/S N*

NoK-62278 Name **TWEEDHOPE H.O.** Sqn., Battery, or Company } **Canadian Scottish Reg't CASE**
 Date of last entry in Company Conduct Sheet } No. and date of last drunk } **1st Bn** Corpse } **23-9-39** Date of enlistment } **G.C. Badges NIL** Service or Proficiency Pay } **M.F.M. 6**
 Sheet No. } Signature O.C. Company, etc. } **Character:** **17141-7-42125-20**
H.Q. 1771-33-4227

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
Victoria	25-10-40	Nil	AWL form 0830 hrs 25-10-40 till 1400 hrs 31-10-40 (this entry taken from MFM 2 as no MFM 6 available)	Documentary		7 days C.B.	1-11-40	O2C.	For 7 days pay FR&I 149(1)(A) LAG Rounding.
Aldershot	25-7-42	Pte.	AWL 17 days, 12 hrs 11 mins. A.A. 15(1)	Documentary	Cpl. Wright Cpl. Hunter	14 days F.P. 14 days Pay 46(2)(d)	10-8-42	Lt-Col. T.H. Hewitt.	For 18 days pay. FR&I 149(1)(a) Cost of Return £2-2-0

Certified True Copy from the Regimental Books in my Custody.
W.A.J. Robinson
 W.A.J. ROBINSON) Captain.

Statement as to Character and Particulars of Service of Accused.

Number. K62278 Rank. PFC Name. HERBERT OLIVER NEEDHAM Regiment (or as the case may be). CAN SCOT. REGT 3 CAN DIV INF RAISE UNIT

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

NOTE.—At a trial by field general court martial the summary may be compiled from the field conduct sheet. The conduct sheets mentioned should be produced in court with this statement but not attached to the proceedings.

	* Within last 12 months.		* Since Enlistment.
For <u>AA 15(1) ONE</u>		times	<u>TWO</u> times
For _____		times	times
For _____		times	times
For _____		times	times
For _____		times	times

Number of instances of gallantry or distinguished conduct. None
 or
 There are no entries in the conduct sheets of the accused! None

† See para. 677, R.S. 1940.
 * The numbers herein stated should correspond with the number of entries in the conduct sheets, promotions being given to the most serious offence in each entry and to any recognized special acts of gallantry or distinguished conduct.
 † Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

2. The accused has not been previously convicted; or None
 Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement. None

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for _____ beginning on the _____ day of _____ None

4. The accused has been in confinement, awaiting trial on the present charges, for _____ None days in military custody, making a total of THREE (3) WEEKS FOUR (4) WEEKS ELEVEN (11) DAYS days of which NO ELEVEN (11) days were spent in hospital. None

5. The present age of the accused according to his record of service is 22 YRS. 7 MOS None attestation paper

6. The date of his enlistment specified in his record of service is 23 SEP 39 None attestation paper

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 YRS. 3 MOS 23 DAYS None

8. The accused is entitled to deferred pay or gratuity in respect of 3 YRS. 3 MOS. 23 DAYS service. None

9. The accused is entitled to reckon 3 YRS. 3 MOS. 23 DAYS service for the purpose of determining his pension, etc. None

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to state any military decoration or reward). None

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

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

Herbert Oliver Needham

STATEMENT BY THE ACCUSED

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

I desire the Services of an Officer to represent me at my trial.

W. L. Lusk
K-62278 Pte. TWEEDHOVE H.O.

YY-4

CPL TWEEDY R.S.

Correspondence to be FINNED here.

44-4

M 30
207-4163

Army Form A.3.

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

PROCEEDINGS.

A.

On Active Service, this Eleventh day of November, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Army Tank Bde

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

*Omit if not applicable.

~~It is not practicable to delay the trial for reference to a superior qualified officer.~~

(1) Three Officers to form the Court.)

(2) A Field Officer as President.)

for the following reasons, namely:

J.C.A. Campbell not Judge Advocate

R.B. Kerr Maj President

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

Rank	Name	Regiment
Major	R.E. Kerr	11 Cdn Army Tank Regt
<i>Members.</i>		
Capt	E.C. King	1 Cdn Tk Tps Wksp, RQCC
Capt	T.R.E. Adams	11 Cdn Army Tank Regt
Capt	S.E. Alsop	1 Cdn Army Tk Bde

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

JUDGE ADVOCATE: -
Major J.C.A. Campbell
ADJA, 1 Cdn Div

*Signed *[Signature]*
(R... Symon) Brigadier
Commanding 1 Cdn Army Tank Bde
Convening Officer.

Proceedings Reviewed
Reviewing Officer (UAC) *[Signature]*

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M-27078 Cpl TWEDDY, Kenneth Samuel 14 Cdn Army Tank Regt	First Charge Sec 8 (2) A.A.	N.G.	GUILTY	<i>Findings and sentences are confirmed by Adjutant Bde</i> <i>and reduced to 14 days and 10 shillings for 28 days.</i> <i>17.9.43</i> <i>Adjutant Bde</i>
	Second Charge Sec 22 A.A.	N.G.	NOT GUILTY	
	Third Charge Sec 19 A.A.	G.	GUILTY	
	Fourth Charge Sec 41 A.A.	N.G.	NOT GUILTY	
	Fifth Charge Sec 40 A.A.	N.G.	NOT GUILTY	
	Sixth Charge Sec 41 A.A.	N.G.	NOT GUILTY	
	Seventh Charge Sec 40 A.A.	N.G.	NOT GUILTY	
	Eighth Charge Section 41 A.A.	N.G.	NOT GUILTY	
	Ninth Charge Sec 40 A.A.	N.G.	GUILTY	
	Tenth Charge Sec 41 A.A.	N.G.	NOT GUILTY	
	Eleventh Charge Sec 40 A.A.	N.G.	NOT GUILTY	
	Twelfth Charge Sec 10 (5) A.A.	N.G.	NOT GUILTY	
See Attached Charge Sheet for particulars of above Charges.				

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

(Signed) *R.A. Wymen* Brigadier
(Signed) *R.E. Kerr* Major
Commanding 1 Cdn Army Tank Bde
Confirming Officer (e)
J.P. Campbell Judge Advocate
President.

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

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

3

I certify that the above Court assembled on the ^{15th} day of *November 1943*, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. B. Certificate of President as to Proceedings.

I also certify that :-

1. The members of the Court

2. The witnesses

* (3. The Interpreter)

* (4. The officers under instruction), *The Judge Advocate* were duly sworn.

Signed this *15th* day of *November 1943*.

R.E. Kerr
President of the Court Martial.
(R.E. Kerr) Major
14 Cdn Army Tank Regt

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

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

Signed this _____ day of _____ 19__

President of the Court Martial.

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

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

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

Signed this *19th* day of *Nov* 19*43*

R.A. Wymen
Confirming Officer.
(R.A. Wymen) Brigadier
Comd, 1 Cdn Army Tank Bde

Promulgated and extracts taken in the case of M-27078 Cpl TWEDDY, Kenneth Samuel, 14 Cdn Army Tank Regt.
(a) (Dated) *22 Nov 43* (Signed) *J.P. Campbell*

Promulgated and extracts taken in the case of A.C.I. 105 ARMY TANK BATTALION (The Cases mentioned)
(Dated) _____ (Signed) _____

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

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

J. Campbell
Judge Advocate

B2.

CHARGE SHEET

The accused MB7078 Cpl. Kenneth Samuel TWEEDY of the 14th Cdn. Army Tank Regt. (the Calgary Regt. (Tank) C.A.C.) a soldier of the Canadian Army Overseas is charged with: **G**

First Charge

Section 8 (3)

Army Act.

When on active service, striking his superior officer, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, struck, with his fist, on the forehead, Captain Forbes THRASHER, Headquarters 1 Cdn. Div., who was at that time endeavouring to take him into custody.

Second Charge

Section 22

Army Act.

When on active service, escaping from escort, in that he, in the field at Campobasso, Italy, on 28 Oct. 1943, broke away from his escort M20679 L/Cpl. Chesterton G.T., whose duty it was to have him in charge. **Hc.**

Third Charge

Section 19

Army Act.

When on active service, drunkenness, in that he in the field, at Campobasso, Italy, on 26 Oct. 1943 was drunk.

Fourth Charge

Section 41

Army Act.

When on active service, committing a civil offence, that is to say, stealing, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, stole two pairs of shoes, value 16 shillings, the property of Di Pietro Giovanni, of the town of Campobasso, Italy. **Hc.**

Fifth Charge

(Alternative)

Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy on 28 Oct. 1943, was improperly in possession of two pairs of shoes, the property of Di Pietro Giovanni, of the town of Campobasso, Italy, to the value of 16 shillings. **Hc.**

Sixth Charge

Section 41

Army Act.

When on active service, committing a civil offence, that is to say, stealing, in that he, in the field, at Campobasso, Italy, on the 28 Oct. 1943, stole one shawl, value 2 shillings, the property of Antonio Parisi, of the town of Campobasso, Italy. **Hc.**

Seventh Charge

(Alternative)

Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943 was improperly in possession of one shawl, the property of Antonio Parisi, of the town of Campobasso, Italy, to the value of 2 shillings. **Hc.**

Eighth Charge

Section 41

Army Act.

When on active service, committing a civil offence, that is to say, stealing, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, stole two razors, value seven shillings, the property of Ranallo Emilio, of the town of Campobasso, Italy. **Hc.**

Ninth Charge

(Alternative)

Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, was improperly in possession of two razors, the property of Ranallo Emilio, of the town of Campobasso, Italy, to the value of seven shillings. **G**

Tenth Charge

Section 41

Army Act.

When on active service, committing a civil offence, that is to say, common assault, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, assaulted Emilio Palange, of the town of Campobasso, Italy, by striking him in the eye with his fist. **Hc.**

Eleventh Charge

Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, did create a disturbance by breaking glass, in the house of Luisa Vingiguerra, of the town of Campobasso, Italy. **Hc.**

Twelfth Charge

Section 10 (3)

Army Act.

When on active service, resisting an escort whose duty it was to have him in charge, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, while under escort of C41793 L/Cpl. Bondurant G.E. and C32960 L/Cpl. Morris F.S. of No. 1 Coy. Cdn. Provost Corps, resisting the escort by strangling. **Hc.**

M. H. in Hq.
President

James L. L. L.
Lt. Col. C.B. Neroutos
14th Army Tank Regiment
(The Calgary Regiment (Tank) CAC)

*J. C. Lawrence
Judge Advocate*

MEDICAL OFFICER'S CERTIFICATE
AR(CAN) PARA 857

*W. M. Kenney
President*

I certify that I have this morning examined
No. K37076.. Cpl. Tweedy.... Kenneth. Soquel.....
of.. 14th. Cdn. Army. Tank. Regt. and in my opinion he
is fit to undergo trial by Court Martial
station... Ft 14.....
Date.. 16th. Nov. 1943.....
.....
Medical Officer

Accused M 27076 S/L TWEEDY, KENNETH SAMUEL 10 CDM, ARMY TANK REGT
 (No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the field in France on 15 Nov 45
 (Country) (Date)

Rank Name Unit

PRESIDENT: Major RB KERR 11 CTR

MEMBERS: Capt EC KING 11 CTR

Capt TRB ADAMS 11 CTR

JUDGE ADVOCATE: Major JCA CAMPBELL ADIA HQ 10 CDM
 (if any)

OFFICERS UNDER INSTRUCTION: Capt RGDH MacINDOE 11 CTR

Capt RGDH MacINDOE 11 CTR

Capt RGDH MacINDOE 11 CTR

PROSECUTING OFFICER: Capt CJ MacDONALD Lawyer? Ans No

DEFENDING OFFICER: Lt HR PARK 11 CTR Lawyer? Ans Yes

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (R&P 17(B), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (are) brought before the Court, and at 10.51 hrs, the trial commences.

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

President to accused: Do you object to Major RB KERR as interpreter? Ans No

The interpreter is duly sworn.

Do you object to Major RB KERR Shorthand Writer? Ans No

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

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

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

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

*J. Campbell Major
Judge Advocate*

CHARGE SHEET

The accused M27078 Cpl. Kenneth Samuel TWEEDY of the 14th Cdn. Army Tank Regt. (the Calgary Regt. (Tank) C.A.C.) a soldier of the Canadian Army Overseas is charged with: **G**

First ChargeSection 8 (2)

Army Act.

When on active service, striking his superior officer, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, struck with his fist, on the forehead, Captain Forbes THRASER, Headquarters 1 Cdn. Div., who was at that time endeavouring to take him into custody.

Second ChargeSection 22

Army Act.

When on active service, escaping from escort, in that he, in the field at Campobasso, Italy, on 28 Oct. 1943, broke away from his escort M20679 L/Cpl. Chesterton G.T., whose duty it was to have him in charge. **Hc.**

Third ChargeSection 19

Army Act.

When on active service, drunkenness, in that he in the field, at Campobasso, Italy, on 28 Oct. 1943 was drunk.

Fourth ChargeSection 41

Army Act.

When on active service, committing a civil offence, that is to say, stealing, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, stole two pairs of shoes, value 16 shillings, the property of Di Pietro Giovanni, of the town of Campobasso, Italy. **Hc.**

Fifth Charge(Alternative)Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy on 28 Oct. 1943, was improperly in possession of two pairs of shoes, the property of Di Pietro Giovanni, of the town of Campobasso, Italy, to the value of 16 shillings. **Hc.**

Sixth ChargeSection 41

Army Act.

When on active service, committing a civil offence, that is to say, stealing, in that he, in the field, at Campobasso, Italy, on the 28 Oct. 1943, stole one shawl, value 2 shillings, the property of Antonio Parisi, of the town of Campobasso, Italy. **Hc.**

Seventh Charge(Alternative)Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943 was improperly in possession of one shawl, the property of Antonio Parisi, of the town of Campobasso, Italy, to the value of 2 shillings. **Hc.**

Eighth ChargeSection 41

Army Act.

When on active service, committing a civil offence, that is to say, stealing, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, stole two razors, value seven shillings, the property of Ranallo Emilio, of the town of Campobasso, Italy. **Hc.**

Ninth Charge(Alternative)Section 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, was improperly in possession of two razors, the property of Ranallo Emilio, of the town of Campobasso, Italy, to the value of seven shillings. **G**

Tenth ChargeSection 41

Army Act.

When on active service, committing a civil offence, that is to say, common assault, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, assaulted Emilio Palange, of the town of Campobasso, Italy, by striking him in the eye with his fist. **Hc.**

Eleventh ChargeSection 40

Army Act.

Conduct to the prejudice of good order and military discipline, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, did create a disturbance by breaking glass, in the house of Luisa Vingiguerra, of the town of Campobasso, Italy. **Hc.**

Twelfth ChargeSection 16 (3)

Army Act.

When on active service, resisting an escort whose duty it was to have him in charge, in that he, in the field, at Campobasso, Italy, on 28 Oct. 1943, while under escort of C41798 L/Cpl. Bondurant G.E. and C32960 L/Cpl. Morris F.S. of No. 1 Coy. Cdn. Provost Corps, resisting the escort by struggling. **Hc.**

*M. J. M. Major
President*

Ernestos L. L. L.
Lt. Col. C.S. Neroutsos
14th Army Tank Regiment
(The Calgary Regiment (Tank) CAC)

Handwritten notes at top right, possibly "K..."

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Faint, illegible typed text in the middle section of the document.

To be Tried by Field General Court Martial

[Signature]
R.A. Ryan, Esq.
Capt. 1st Gen Army Tank Bde

In the Field
11 Nov, 43.

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*J. A. Campbell Esq
Judge Advocate*

MEDICAL OFFICER'S CERTIFICATE

MR (CAN) PARA 557

*Brig Genl May
President*

I certify that I have this morning examined
No.....E97078..Cpl..Tweedy....Kenneth Samuel.....
of..14th.Cds..Army.Tank.Regt.....and in my opinion he
is fit to undergo trial by Court Martial
at.....Field.....
Date..15th.Nov.1943.....
.....
Medical Officer

Accused M 27076 SGT TWEEDY KENNETH SAMUEL 104001 ARMY TANK REGT
 (No.) (Rank) (Christian Names) (Surname) (Unit)

Held-in the Field in Philippines on 15 Nov 45
 (Country) (Date)

Rank Name Unit

PRESIDENT: Major RB KERR 11PCTR

MEMBERS: Capt EC KING 11CONTRTPS WHEP

Capt TEB ADAMS 11CTR

JUDGE ADVOCATE: Major JEA CAMPBELL ADIA HQ 104001
 (if any)

OFFICERS UNDER

INSTRUCTION: Major GYNDA MALINDOG 11CTR

Capt JEE ASTPAP 11CTR

Capt JEE ASTPAP 11CTR

PROSECUTING

OFFICER: Capt CJ MacDONALD Lawyer? Ans No

DEFENDING

OFFICER: 11 HR PARK 11CTR Lawyer? Ans Yes

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted; that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (are) brought before the Court, and at 1015 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 577 (See GMR Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialed by the President and attached to the Proceedings.

President to accused: Do you object to Major JEA CAMPBELL as interpreter? Ans No

The interpreter is duly sworn.

Do you object to Major JEE ASTPAP Shorthand Writer? Ans NA

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

President to accused

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

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

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

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RSP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

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

First Charge <u>NOT GUILTY</u>	Fifth Charge <u>NOT GUILTY</u>
Second Charge <u>NOT GUILTY</u>	Sixth Charge <u>NOT GUILTY</u>
Third Charge <u>GUILTY</u>	Seventh Charge <u>NOT GUILTY</u>
Fourth Charge <u>NOT GUILTY</u>	Eighth Charge <u>NOT GUILTY</u>

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

NINTH CHARGE - NOT GUILTY

TENTH CHARGE - NOT GUILTY

ELEVENTH CHARGE - NOT GUILTY

TWELFTH CHARGE - NOT GUILTY

He pleads as follows:

(For use when there are pleas of 'Guilty' and 'Not Guilty')

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

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

2. President to accused:

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence? (RP 39(A)).
Ans. No

3. The Prosecutor's opening address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

4. The Prosecution is closed. (~~It is submitted that no further evidence is admissible, see RP 40 fn 1, RP 75 fn 1.~~)

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination. (RP 40, fn 2) or that he may, if he wishes make an unsworn statement upon which he can not be cross-examined. (PP 40(D)(11)(a)).

6. President to accused:

Q. Do you apply to give evidence yourself as a witness? Ans. Yes

Q. Do you intend to call any other witnesses in your defence?
Ans. Yes

Q. Is he a witness as to character only? (RP 40(B)) Ans. Yes

7. The evidence for the defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses, see RP 40, 41 and 42).

9. The Court is now closed to consider the finding. (RP 43 and 117). (Record Finding on page 2 of AFA.3).

10. The Court being re-opened, the accused is again brought before it and the findings of 'Not Guilty' (if any) are pronounced. (RP 117(B)).

11. The charges, to which the accused pleaded 'Guilty' are read to the accused.

12. President to accused:

Q. Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded 'Guilty'? (RP 37(B)) Ans. No

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

13. Summary of Evidence is read aloud in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence

(cont'd)

PAGE 'C' (CONTINUED)

that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings). RP 37(B).

14. President to accused:

Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)) Ans. No
No cross-examination.
(Statement (if any) is recorded on separate sheet, initialled by the President and attached hereto).

15. President to accused:

Q. Do you wish to give evidence yourself or call witnesses as to character? (RP 37(C)) Ans. No *Statement presented, no objection by Prosecution*

16. Statement of Character and Service (AFB.296) and Field Conduct Sheet (AFM.6), signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "1", and "2", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

17. President to accused:

Q. Do you wish to address the Court on the Statements of Character, Service and Conduct in mitigation of punishment? (RP 46(D)).
Ans. No No cross-examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto).

18. The Court is now closed to consider the sentence. (Record on Page 2 of AFA.3).

(Punishments AA 44; KR (Can) 563 - 566; one sentence only awarded, RP 48. Sentence should be dated).

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

*J. Campbell Major
Judge Advocate*

B. B. Keen Major

(Signature of President)

Trial of M 27078 Cpl Kenneth Scamell TWEEDY
14 Can Army TR Regt. (Calgary Regt (Fanc))

No opening address by the Prosecuting Offr.

Witness, ^{M37200} Cpl GRAVES 78, 1 Pvo Coy, Can Pvo Corp
having been duly sworn states -

On Oct 29 1942 a complaint received at and
del. of CAMPOBASSO that two Can soldiers were
causing disturbance in the town. A patrol was sent out
to investigate complaint. As a result the accused Cpl
TWEEDY was brought to our Detachment. At that time
Cpl TWEEDY was very intoxicated and incapable of
making statement about same. I intended to interview
Cpl 29 1943 I informed Cpl TWEEDY that he was
under arrest for skulping 3 p/s shoes, and vapor
causing a disturbance, damaging house, committing
common assault by striking civilian in face and
that he was drunk. A further charge was laid
later in re regards to complaint by Cpl FORBES
THRASHER. I gave him statutory warning, you
need not say anything, you have nothing special from
any threat made you. You have nothing to hope
from any promise made for anything you do
say may be used as evidence at your trial.

Cpl TWEEDY then gave me following statement
free and voluntarily. - "Starting yesterday afternoon
I drank a lot of vino. I don't remember anything
of the rest of the afternoon until I awoke at the
fact.

I recognize Cpl TWEEDY as accused.

Cross examined.

Cpl TWEEDY was drunk. He was sick
He had fallen asleep, had to be carried, smell
of spirits. In a fugitive frame of mind when
arrested.

President Repeat list of articles ~~lost~~ taken:

2 pr. shoes - 460 lbs
 10704 - 70 lbs.

Damage to house - 150 lbs.

4-15-51 - What time did you see Cpl FINEST?

About 1730 hrs on 28 Nov 49

RP 933 complied with.

2nd White's Capt FORBE: THASHER HQ 1000 Div.

Having been duly sworn states:

On 28 Nov 49 at 1630 hrs I was near front entrance
 GRAND ALBERGO which is operated under military
 direction on ROYAL YORK HOTEL in CATAGUASCO
 when the rep of the summer signor GIUSEPPE COERECO
 rushed to me saying "that a soldier had broken one of
 the dining room windows - he pointed in direction in which
 the soldier had gone - I ran after a running soldier
 who darted into small shop where I found him
 standing behind one of the entrance doors of the shop
 as there was a 2nd soldier there I ordered him to
 place his other hand against the wall and
 although there was a struggle the 1st soldier was remained
 in the shop - then saw that the 1st soldier was a
 Cpl and the 2nd a Hq. The Cpl broke free from
 the Hq and ran further along street into
 apartment house where the Hq + I found him
 trying to break open door which apparently led
 into courtyard - as he was unsuccessful he darted
 a distance with Hq in pursuit following. As I
 suspected he had rather easily broken away
 from Hq and did not wish to be lost easily and
 as I also thought I had ceased to hear
 footsteps of Cpl I glanced back into recesses of
 hallway to make sure we did not overtake him.
 seconds I saw the Cpl shrinking into a dark
 corner of hallway I returned and stood in front

OK

officer and called the H/cpl over. The Cpl
'struck me on forehead, drew a small amount of
blood. I closed in on him, holding his arms
down but he struck me again. The H/cpl returned
and after another struggle the Cpl was removed to
the street. He again broke loose, went further down
the street and crashed into a small residence overturning
tables, breaking china and thoroughly disturbing the
inhabitants. As I had not confidence in the
officers of the H/cpl in holding the Cpl, I grabbed
the Cpl and with the assistance of H/cpl, removed
him to the street, where I released my grip, but
H/cpl's close watch kept him quiet except for
Protest approach I turned back then I saw
the arrival of the Cpl - when I looked back I saw
the Cpl had escaped and was running up a
passageway in a large building, the entrance to
which was closed by large doors but there was
a small door within large one open. The H/cpl
placed himself in front of door with extended arms
saying that he and Cpl had fought together and that
he was not permitting any whose duties kept
them behind the lines to arrest his pal. Both men
were arrested by MP.

I recognize accused.

Cross examination

Self responsible for management of hotel
I followed soldier pointed out to me
I saw him first in street. He was mistaking
himself - he might have been drinking but was not
drunk. He was close enough I have seen my rank I
was wearing summer drill because with petticoated p.p.
I had no reason to believe he was per-noxious. I
do not date I was an officer but I think he was
aware of my rank. H/cpl could not see me - he
was further up stairs. No further assistance at hand if
I had not acted as I did prisoner would have
escaped.

port RPSBB complied with.

1st Witness C41798 Hopt BONDORANTSE, / 1st Co Pro Coy.

Duty, sworn states,

On Oct 29 1950 hrs as result of complaint by Italian civilian that 2 con soldiers had created disturbance in barber shop. I along with 4 other NCO's went to the barber shop. As we got there we were directed down street where the soldiers were. On approaching soldiers I saw Capt FANDES THASSEN came out of doorway and said "take these men under arrest and will proper charges later". The two soldiers I referred to were Hopt CHESTERTON & Cpl TWEEDY of the CARGART REGT. Hopt CHESTERTON appeared to be assaulting Cpl TWEEDY a long st. Cpl TWEEDY was covered with blood face hands and torso. I took him away and left him to come with us. Hopt CHESTERTON interfered and was necessary to put Hopt in a jeep by force. On returning for Cpl TWEEDY he had come back to doorway but within a few min he refused to come quietly and was necessary to use force to escort him to foot to Pro Det. He was unsteady on feet, incoherent in speech which made me think him drunk. I recognize the accused.

He said he was sick and refused to leave from wall in doorway.

Defence declines to cross examine the witness
walked Cpl TWEEDY about two blocks.
RP 83B complied with

4 WITNESS. GREGORIO GAGLIARDI

Been duly sworn states.

I work at shoe store of BRETTO GIOVANNI.

Two soldiers to come into store, passed behind counter and one started to set fire to paper around light. I tried to put fire out and they pushed me away, and then the two soldiers came to front of store and started to take shoes and then ran away taking 5 shoes (2 1/2 prs) with them, both soldiers each taking some. I closed up the store and followed the soldiers. They went to a store owned by ANTONIO PARISI and went inside. I followed and saw the two soldiers pick up a scarf and

was being asked by ENRICO PALANCA whether they wanted to buy it or not they hit him. Shwa, the shoe man hit him. I recognize the accused as being one of the soldiers I am talking about.

These shoes belong to PIETRO GIOVANNI.
Shoes produced: 1 pr. brown ladies shoes - Exhibit A.
1 black ladies slipper - Exhibit B.

The soldiers did not pay for them.

I am a shoemaker.
The shoes are worth 160 lira per pr.

Cross Examination

Q Who was in store when soldiers came in.
A I was an soldier in the store - 5 minutes before the two came in.

Q Did the accused ask for shoes? No.

Q Did the accused attempt to pay for shoes? NO

Q How many shoes did accused take? I don't know.

Q Did he take any at all? He took a handful and when I counted 5 were missing.

Q Do you think accused was drunk? Yes.
Why?

A The first soldier wanted to buy shoes but when the two came in he went away.

The time was about 1600 hrs. I do not know the date. Sometime last month.

The shoe store is No 48 Via MARCONI
CAMPIDASSO.

Damn 17 years old.

The shoe store only 5 mins walk from here
RP 833 completed with.

Court adjourned at 1215 hrs. Reopened at 1400 hrs.

Some members present.

PE

Witness. C 634791 DENIQUE E 1810 Coy Con Pso Corps

Duly sworn states. Court remembers date Italian barracks camp, of soldiers making disturbance. He was ordered to bring him in. Italian came and 1.70 hrs they left, a Con officer told us same thing.

The girl called of liquor was sick, she was on her
 stomach, got on for a to break down and cry
 of liquor and later began that which makes
 in with some of and with some. The girl
 proceeded to the shop, after an info was
 with L/CPI component. L/CPI order + pt. device
 investigate that of two orders from Bakers shop.
 a 1000 for 20000. I was called out to
 only sweet state -
 2/11/60 L/CPI MORRIS FS. 1000 The Cop
 2/11/60

RP 528 supplied with.
 2 packages arrived.
 One shoe was black
 Reexamined

16 pairs.
 was in afternoon - shortly before supper. Grand
 I walked behind him. He was staying at
 TWEED did not after winter break
 see him of L/CPI.

TWEED unable to recall what assistance
 speech matter. Girl found one shoe 2/11
 from Examine.

could I sweet boy (Exhibit e)
 (Exhibit A & B). Shows what vapor that
 was with. I could say I recognize shoes
 up we took one shoe from him and vapor and
 with in the L/CPI store up in top. On way
 door with us we took him on for a contact
 asked him to come out. He came on for an
 wife all, and was sick. L/CPI MORRIS and I
 then, on we came up to the painter -
 we followed him and

assigned to Pro Det. At this moment Capt
FOAMER THURSTON was present. When we met
these 2 men the cpl ran into alleyway, leaving h/cpl
BONDURANT to take care of h/cpl. I went into alleyway,
located and held the cpl who was vomiting. The h/cpl
was escorted to Pro Det by h/cpl Dudley & Pte
DENIQUE to best of my knowledge. The cpl was
escorted by h/cpl Bondurant and myself. In vain
I made quick search of cpl clothing and located
one straight razor and a ladies shoe. On arrival
at Pro Det these two men were turned over to
Orderly Sgt. - Sgt. D. HENZIE. I identify the
accused as the cpl referred to in my evidence.
Exhibit B ^{was} ~~was~~ not taken off cpl.

Exhibit A does not appear to resemble shoe I took
off cpl. Shows a lighter colour.

Exhibit C is not to the best of my knowledge, the
razor I took off the ^{cpl.} ~~cpl.~~. Shows mottled colour
change of colour, light grey + black.

Cross Examined

I say, cpl TWEEDY was drunk because of
his smell and sickness and needed assistance to help
him walk, used abusive language and an arrival at Pro Det
he refused medical attention for either his head
h/cpl Cheltona smell of liquor and an arrival at
Pro Det. begged me to forget the affair although by that
time several other persons another had been called to
wonder how realized utility of pte. Also cried.

Incident

Cpl TWEEDY did not resist me at any time,
other than struggling in way to detachment. Just a sort
of protest.

RP 53B complied with.

gore

7 Witness. Lt FR SWINNERTON HQ Tro Coy 13 Coops.
July sworn states.

On 29 Oct I think was driving down street in vicinity of Royal York hotel when I saw a gathering of soldiers and civilians on the footwalk. This appeared to be a confusion and in midst of gathering I saw a Con offr who I know to be Capt THRASHER. He was battered and had by his disarrangement of clothes and hair together with blood on his forehead been involved in a struggle. I stopped my car and asked this offr if I could help. There were present NCO's of Con Tro. 2 of whom were struggling violently to maintain control of a third Con soldier. I asked them if I would be any assistance. I removed this soldier to their HQ in my car. This they agreed to and I took charge of the apr soldier who they said to be a Lt. He was struggling and violently, endeavouring to break his arm. It was necessary for me to possibly place him in car and there apply a restrictive hold. I then conducted him to the Con Tro HQ and en route he endeavoured to break my hold. An arrival of Con Tro HQ I called for TRAY and handed the Lt in close escort to him. This NCO had been drinking, but was not in my official experience drunk.

Cross Examined

I recognize accused, say first seen him at CON Tro HQ. He was not drunk in my opinion.

President. Do not see accused as of

5 to ten minutes time elapsed between say fracas and arrival at Tro HQ.

Recognized Capt THRASHER as offr easily.
Cannot be certain of time.

RP 53B complied with.

John

Eighth Witness LUISA VINGUERRA.

Only sworn states -

shown ~~in~~ CAMPOBASSO. I could remember the date, it was last month about 4:30 or 5 PM, I saw two soldiers outside the house who were making trouble and started to break a window. ^{one soldier} had something in his hand, could not say what. I was nervous and my child was scared. There were two or three soldiers. One of the soldiers broke the glass. Two soldiers came into house and started fighting. During fight one of the soldiers ~~had~~ dropped a shoe. So came, was done. My sister was knocked down and blinded an arm. Another soldier came in and took both soldiers away. One of the soldiers hurt his hand. Shown, bleeding. I did not recognize accused. No cross examination.

ADTA. Fight was in my house. Glass in door was broken. The shoe ^{dropped} was ~~like~~ the one shown as exhibit A. I can swear it is. RP 83B complied with.

NINTH Witness EMILIO RANALLO. CAMPOBASSO.

Only sworn states -

~~work~~ a barber shop in CAMPOBASSO owned by MARINATO POMPILIO. On 29 Oct 45 about 4:30 PM in came three soldiers ~~to~~ to the shop, one sat down. ~~How~~ other started to shave him ~~in~~ and soldiers took two razors and put them in his tunic. When I asked for them the soldier denied having them and threatened to hit him but did not. I recognize the accused as one of the soldiers. He is ~~the~~ and who took my razors.

Exhibit 'e' is my razor. It cost 70 lira. Cross examined ~~was~~ The accused was a little drunk. ~~is~~ my own.

RP 83B complied with. Court adjourned for 10 minutes. Court reassembled 15:50hrs. Some members.

Tenth Witness POMILIO MANDATO CAMPO BASSO

Only sworn states

I own a barbers shop in CAMPO BASSO
On 24.11.42 about 9:30 or 10 PM three soldiers came to shop and sat on a chair and another started to shave him, I continued to do so after I had objected them ~~to~~ in the chair. Took two razors and put them in his pocket. He was not headed. He is the accused. He got up out of chair, tried his face and started to go out of the shop. My assistant asked him for the razors but the soldier would not give them up. The razors belonged to EMILIE RANALLO. Exhibit C is a razor belonging to RANALLO. It is worth about 60-70 lire. The other razor had a mottled white and after returned blade.

Cross Examined.

The accused was partly drunk (1/4 and half).

So was his friend

RP 92B complied with.

Eleventh Witness ANTONIO PARISI - CAMPO BASSO

Duly sworn states

I own a clothing store in CAMPO BASSO. I am not sure if the date but at about 2:30 to 3 PM there were a lot of people in the store when two soldiers picked up a scarf and on being asked whether he wanted to buy it by EMILIE PALANCO, my father-in-law, knocked him down and left the store. It was an unheaded soldier who took the scarf. I recognise accused as the soldier. I saw him hit my father-in-law.

The scarf was just like the one here in court. ~~(I am sure)~~ but I cannot swear this is the identical scarf.

The police gave my brother-in-law, aged 12, the scarf and he gave it back to me.

Cross-Examined

The soldier hit my father-in-law in the store about 10ft away. There were a lot of people in the store at that time.

father-in-law fell down and later developed a black eye.
 I was watching them all the time but cannot say whether it
 was a right or left handed blow. The blow was fairly drunk.
 RP 83B complied with.

Fifth witness

Prosecution applies for adjournment of promise
 necessary witness who is not present. This witness
 was warned but did not show up. Defense objects
 to application as ground sufficient time was available
 to have witness present. Court is closed to consider
 application. Court recesses 1650 hrs. Some members
 present. The application for adjournment is disallowed.

Evidence for Defence

1st witness

Accused On 29 Oct 49 was granted pass
 to come to CAMPOBASSO went to store in morning
 afterwards wandered around town to get food. I ate
 in an Italian Restaurant and afterwards looked for someone
 to see home. Visited several shops but nothing, but
 met Italian boy who said he could get some wine
 This boy took us to private house and there met a
 man and woman. They brought out large jug of wine
 and wine started to drink. The woman gave us some
 food - bread & cooked peppers. Was there for sometime
 I can't remember how much I drank - remember
 5 or 6 glasses after which we returned to street. I
 remember starting up street from there on everything
 went blank. Don't remember anything till I was
 sitting around fire. Lt Col CHESTERTON was with
 me from the time of the show on. The glasses we used
 to be vino were a few size. Between whiskey glass and
 water glass size. I don't feel I was getting drunk
 when I was at the house. I didn't walk more than
 200ft before things blacked out. Lt Col CHESTERTON was
 with me when I left house. Arrived here about 10:30
 and say what time I left. I remember nothing after
 leaving house and starting down st.

pac

argument with clerk. he took shoes
 and handed Italian some money & cig's, the
 Italian followed him out. TWEDDY dropped
 his shoe. H/cpl Chesterton was following him.
 They left and returned to catch the truck. They were
 both very drunk. TWEDDY was ~~more~~ lurching down the street, needed
 assistance to stand. Chesterton not quite so drunk.
 Both quite intoxicated. TWEDDY offered money and
 left in the shoe store. He slipped one shoe. Storeman
 locked door and followed them up street. H/cpl
 Chesterton didn't leave any shoes.

Cross examined
 I couldn't recognize the shoes
 exhibited.

ADDA I have known Cpl TWEDDY + CHESTERMAN
 a number of years, consider them my friends.
 They drank all the bottle of cognac. They also
 had Italian mess tin full of red wine, probably
 knew. TRP 83 B complied with.

Court adjourned at 1745. Reopened at 1945 hrs.
 Same members present.

Answer by Defendant

Reviewed the evidence. Only event we can
 be certain of was in early part of day when he met
 H/cpl Chesterton at the shoe store. He met the boy, who took
 them to the house when they had £0.6 fairly large
 glass of wine on the street again no money. If
 he awakes in barracks. Effects of wine are unmitigated hell
 to be drunk. If PUTMAN says accused drunk when he met
 them, accused then drank about 11 oz of cognac. From
 that apparently they went to shoe store when accused says
 he has no recollection of what happened. PUTMAN says
 accused offered to buy shoes but salesman declines
 this but does not know which soldier took them.
 Fourth charge - stealing. Necessary to establish an intention
 to steal. I submit that due to accused's drunken state and
 one to find that no stealth shown - (If PUTMAN present) - no intention
 proven. JDC

- 6 charge - accused identified as taking scarf.
 8 charge - witness sworn, corroborated by another witness, that rays were taken. Both identify Exhibit C as one of rays taken from barber shop.
 10 charge - PARISI saw accused strike PALANGI
 11 charge - THRASTER states damage done blouse, owner states window broken by one of two soldiers accused and bleeding wound.
 12 charge - straight forward evidence 2 Pro Hpts stated do not offer resistance to arrest.

- Judge Advocate: - ① Points out JA's duty to summarize evidence for court and to advise upon law. ② JA's advice on questions of law should not be disturbed except for material reasons. ③ Court is not bound by any opinion expressed by JA, but must form its own opinion from evidence. ④ The particular charge must be proved also acquittal follows. ⑤ JA advises on special findings when there are alternative charges. If found guilty on one alternative charge a finding of not guilty on other alternative charges. ⑥ JA refers court to para 47+48 MML 26 to para 9 MML 106 and to para 50 MML 112 and points out necessity for intent in case of stealing, advises court regard to drunkenness or defence or otherwise. Points out for court to determine whether Capt THRASTER should have put himself in position where he might have been struck by accused. ⑦ JA's summary evidence for prosecution and defence. ⑧ This pointed out to the court the principal of English law that accused presumed innocent until proven guilty and that accused is to be given benefit of reasonable doubt. ⑨ JA defines reasonable doubt for benefit of court.

The court is closed to consider its finding.
 JAC

Evidence of character

M21153

Written statement by JESSE BAILEY FHB Submitted by consent of court.

Witness Major O H MACINDOE.

Duty sworn states:

I have known accused over 12 months, as adjt of the regt during that time he did not appear before CO at any time. Also he was above all NCO. There were never any criticisms of his conduct and duty period of 3 to 4 months in Sicily & Italy when he was attached to 5th Coy. I was 2 1/2 I found his ability definitely exceptional and his courage beyond doubt. I shall call an exceptional, faithful and trustworthy soldier.

No cross-examination. HP 83 B complied with.

~~Proceed to submit~~

Accused states an oath:-

I had letter from home from Vancouver by the station in Canada, which stated that my father & mother have separated since last spring. During this period my mother has not heard from my father nor received any money to live on. She has been working and keeping 2 young boys as well as her own. She has been working in front packing house and now that season is over the only money she has is my assignment. I have another brother in England. I don't know whether he is sending her money or not. After I received this letter I saw what padre is see if he could arrange for dependent allowance. I don't know approval or to what can be done.

Court directs that Exhibit 'c' be returned to owner. EMILIO KANALLA

JK

Statement of Character.

by MS7855 S. B. M. Bailey P.H.B.

"I am the Sgt. Major of H. P. Sqn. I have occupied that position for one year. During that time, I have been in close contact with Cpl. Tweedy. I have always found him to be an efficient K and capable N.C.O. As a soldier he has been amenable to discipline and hitherto his conduct has been exemplary. In my opinion, in view of his outstanding capabilities he would be extremely difficult to replace.

S. B. M. Bailey
S. B. M. Bailey P.H.B.

"I Capt. F.H. Ritchie Capt & Adjt 14th Cdn. Army Tank Regt. certify that the above is a true copy of the original statement of S. B. M. Bailey P.H.B., given of his own free will and accord.

R.P. King Maj
1st Lieut.
J.C. Campbell Maj
Judge Advocate

F.H. Ritchie Capt
(F.H. Ritchie.) Capt. & Adjt.
14th Cdn. Army Tank Regt.
(The Calgary Regt(Tank) C.A.C.)

LIST OF WITNESSES

For the Prosecution

- First Witness ✓ M37305 Cpl. Graves H.S. No. 1 Provost Coy.
R.C.M.P.
- Second Witness ✓ Capt. Forbes Thrasher H.S. 1 Cdn. Div.
- Third Witness ✓ 041798 L/Cpl. Bondurant G.E. No. 1 Provost Coy.
R.C.M.P.
- Fourth Witness ✓ Gregorio Gagliardi, Campobasso,
- Fifth Witness ✓ Luisa Vingiguerra, Campobasso.
- Sixth Witness ✓ 065479 Pte. Denique E. No. 1 Provost Coy, Cdn.
Provost Corps
- Seventh Witness ✓ 032960 L/Cpl. Morris F.S. No. 1 Provost Coy.,
Cdn. Provost Corps
- Eighth Witness ✓ Ranallo Emilio - Campobasso
- Ninth Witness ✓ Pompilio Mandato - Campobasso
- Tenth Witness ✓ Antonio Parisi - Campobasso
- Eleventh Witness ✓ Lieut F.R. Swinerton 112 Provost Coy., 15 Corps.
- Twelfth Witness - Palange Emilio - Campobasso *not present*
- Thirteenth Witness Giuseppe del Greco - Campobasso

For the Defence - nil.

gone

M.B. Keeley
Prosecutor

1. W. Campbell was a
Judge Advocate

Summary of Evidence in the case of
M 27078 Cpl. Tweedy, K.S. 14th Canadian
~~Army Tank~~
~~Armoured~~ Regt (The Calgary Regiment (Tank)
C.A.C)

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

First Witness for M 37305 Cpl. Graves, H.S.,
the Prosecution NO. 1 Provost Coy, R.C.M.P.,
having been duly sworn
states -

I am M 37305 Cpl. Graves,
H.S. member of NO. 1 Provost
Coy, R.C.M.P. at approximately
1900 hrs on 28 Oct. 1943, I
was instructed to investigate
a disturbance caused by a
Canadian soldier, Pfc. No.
M 27078 Cpl. Tweedy, K.S. of
the 14th Cdn ~~Army Tank~~ Regt. who
was brought to me by a patrol
which had been sent out to
quell the disturbance. At that
time Cpl. Tweedy was very
intoxicated and incapable of
making a statement. Cpl. Tweedy
was placed in the guard
room for the night. On 29
Oct. 1943 at approximately 1200
hrs, I interviewed Cpl. Tweedy.
In the interview Cpl. Tweedy
was warned that he was
under close arrest and I gave
him the statutory warning.
The following statement was

given voluntarily and free - "Started yesterday afternoon and drank a lot of "vino". I don't remember anything of the rest of the afternoon until I woke at the jail," signed R.S. Tweedy, Cpl. Cpl. Tweedy, ~~was~~ before me, is the Canadian soldier who was brought into our Detachment as the cause of the above mentioned disturbance. The accused declined to cross examine the witness.

H. Decco Cpl

Second Witness for the Prosecution Capt Forbes T. Brasher, #6 1 Cdn Div, having been duly sworn states -

I am Capt Forbes T. Brasher member of #6 1 Cdn Div. At approximately 1630 hrs. on 28 Oct 1943 I was near the entrance of the Grande Albergo when the manager, Signor Giuseppe del Decco, came rushing to me saying in French that a soldier had kicked in the glass of one of the windows in the dining room of the Hotel. I looked in the direction he pointed and saw a soldier run around the corner of a

JAC

building. I followed and saw him
 dart into a small store, where I
 subsequently found him crouched
 behind one of the entrance doors.
 It developed that this soldier was
 a cpl. and that there was another
 soldier in the store who was a
 H/cpl. I ordered the H/cpl to place
 the cpl under arrest. There was
 a struggle but the cpl. was
 removed to the street, where he
 escaped from the grip of the H/cpl.
 He ran along the street and into
 what appeared to be an apartment
 house, where he endeavoured to
 break open a glass door, but, although
 he broke some of the glass, he was
 unable to get the door open. Seeing the
 H/cpl and myself he rushed up the
 stairs. As it had occurred to me
 that the cpl had escaped from the
 H/cpl rather easily and, as, in following
 the H/cpl up the stairs in pursuit of
 the cpl., I thought that I had failed
 to continue to hear the footsteps of
 the cpl., I looked back carefully into
 recesses of the hall to make sure
 that the cpl was not there and that
 I was not being led astray by the
 H/cpl. Accordingly, on looking back, I
 saw the cpl. shrinking into a corner
 in the hall. I returned, calling to the H/cpl
 to come, and standing in front of the cpl..

JAC

COUNTER NUMBER 599167

HOUR 1800

OPERATOR'S INITIALS JD

RELIEVING OPERATOR JS

The Cpl struck me in the forehead with his clenched fist, drawing a small amount of blood. This was not seen by the L/Cpl who had proceeded further up the stairs. To prevent my being struck again I closed in on the Cpl., holding his arms down. The L/Cpl returned and the Cpl. was again apprehended and removed to the street, where he again escaped. This time he proceeded further down the street and darted into a small residence, breaking glass and crockery, knocking over furniture, and generally disturbing the occupants. As I no longer had confidence in the willingness of the L/Cpl to hold on to the Cpl I grabbed the Cpl, and together with the L/Cpl we moved him to the street where I released my grip, but kept the two under close observation, lest there be another escape. As I saw Probst approaching I turned to direct that they assist in the arrest and, on returning my vision to the Cpl and the L/Cpl, found that the Cpl had again escaped. He darted into an entrance hall. The L/Cpl placed himself at the entrance to this hall, and, with arms extended, and in vigorous language, stated that the Cpl was his pal and that

JAC

they had fought together and that he was not having those whose duties kept them to the rear of the front lines apprehend his friend. Both soldiers were arrested. I subsequently asked the manager of the Grande Albergo if he could identify the soldier. The manager stated that he could do so. The Cpl here present was the Cpl in this instance and the 4 Cpl here present is the 4 Cpl whom I ordered to place the Cpl. under arrest.

The accused declined to cross examine the witnesses.

James H. Maske Capt

Third Witness for
the Prosecution C 41798 1/Cpl Bondurant,
C. E., NO. 1 Bronost Coy,
R. C. M. P. having been
duly sworn states -

I am C 41795 1/Cpl Bondurant,
C. E., NO. 1 Bronost Coy, R. C. M. P.
In the late afternoon of 28 Oct.
1943 I was detailed to investigate
a complaint of an Italian civilian
that two Canadian soldiers had
made a disturbance in a barber
shop and had taken some razors.
En route to the barber shop
we were directed down the

JHC

street and two soldiers were pointed out to us. As we went up to the soldiers Capt Horber + Prasher dashed out of a doorway and said - "Place these men under arrest, I will prefer charges." The two men whom I afterwards heard were Cpl. Tweedy and 4/cpl Chesterton resisted arrest by

the 4/cpl by grabbing hold of one whom I tried to take hold of. Cpl. Tweedy's arm, the Cpl. refusing to come along when I ordered him to do so, therefore it was necessary to use force to make him fall in. Because Cpl. Tweedy could not stand steadily without assistance, smelled strongly of wine, and vomited. 4/cpl Chesterton smelled of wine and acted in unreasonable and illegitimate manner.

struggling and after some difficulty they were brought to the Detachment quarters. Subsequently they were taken to the guard room. In my opinion they were definitely drunk. I can say now without any hesitation that these soldiers here before me are the two soldiers in question.

He accused declined to cross examine the witness
G. E. Goudreau

Fourth Witness for Gregorio Tagliardi the Prosecution having been duly sworn, through police interpreter Calisto Demonicio, duly sworn, states -

JKC

I am Gregorio Tagliardi employed as a shoe salesman in St. Pietro Giovanni's store. At about four o'clock in the afternoon of 28 October, 1943 two soldiers walked into the store. One of them set fire

to some papers around the electric light. When I attempted to extinguish the flames the soldiers shoved me away. The soldiers entered the rear part of the store and then entered the main part of the store and took three pairs of women's shoes out of boxes on the shelves. The 4/cpl left the store with one pair of shoes in his hands. The Cpl left the store with two pairs of shoes in his blouse. I attempted to recover the shoes from the soldiers but could not do so. After the soldiers left I closed the store and followed the soldiers. I followed the soldiers to a store owned by Corral Palangis. The soldiers entered Palangis's store. I entered the store following the soldiers. I saw the Cpl ask the proprietor of the store to show him a sack, which he took, placed in his blouse, and left the store. The 4/cpl remained in the store for a short time talking to the owner of the store. The 4/cpl left the store and I followed him out. I then went directly to the police station to notify the police that the shoes had been taken by the

case

soldiers. When the Cpl. started to leave Palangui store, Palange attempted to stop him but the Cpl. apparently pushed him aside. I identify these soldiers here before me as the soldiers who took the shoes from the store in which I work. I identify the three shoes here before me, as three of the five shoes that the soldiers took, the sixth shoe being left in the store. The soldiers did not pay for the shoes. The price of the shoes is 160 Lire each pair. As soon as these two soldiers left I explained to the third soldier that I had to follow the two, and that he would have to leave, which he did in a short time, when I closed the store.

shown as
exhibits B and C

The accused declined to cross examine the witness.

Giorgiardi Gregorio

Fifth Witness for the Prosecution Luisa Vingiguerra, Luisa, having been duly sworn, ^{through the aid of the interpreter, George Demosio} states -

I am Luisa Vingiguerra. At about five o'clock in the afternoon, of, as far as I can remember, the 28th of October, 1943, three soldiers

page

entered my house, breaking the glass in the door. The two soldiers started to fight and the third soldier tried to get them out of the house. While they were fighting one of the soldiers, I cannot remember which one, took out a razor. During the fight a table was pushed against my sister Antonetta Vinziguerra, who sustained a slight injury to her arm. During the fight a black shoe, fell out of the blouse of one of the soldiers which was later picked up and taken away with one of the two policemen came in, one with a red round cap, and took the two soldiers away. The Cpl had a cut on his hand, which was caused by him breaking the glass in my door. The third soldier disappeared when the police appeared. Two of the soldiers were wearing black caps. As far as I can estimate about 150 lire damage was done to my house. I can positively identify the Cpl as being one of the soldiers in my house, because I looked at the cut on his hand ^{which was still bleeding} the other I cannot be sure of, as I did not pay much attention to him.

shown here as
EXHIBIT B

which was a fresh cut and bleeding profusely

JDC

The accused declined to cross examine the witness.

Vinziguerra, Antonio

Sixth Witness for the Prosecution C 63479 Pte Leming, F.,
NO. 1 Brownst Coy, Comd
Brownst Corps, having
been duly sworn, stated-

I am C 63479 Pte Leming, F.,
member of NO. 1 Coy,
Corps. In the afternoon on 28
October, 1943, as far as I can
remember, two Italian

..... appeared at our
quarters to register a complaint
that two Canadian soldiers
had stolen a razor. I went to
the barber shop along with Sgt.
Bondurant and 4 Cpl Morris.

Just before reaching the barber
shop in Station Civilian and a
Canadian officer met us and told
us that the two soldiers had left
there and pointed out the direction in
which they had gone. The immediately
went in that direction, meeting
another Canadian officer who pointed
out the soldiers in question. The 4 Cpl
was put in a jeep driven by a
C.M.P. 1/Cpl and I followed. The 4 Cpl
to R.C.M.P. quarters. The Cpl was in
a hallway, and we arrested him
and brought him to our quarters. He
did not resist arrest. On the way to
our quarters I removed a razor from
his pocket and one black shoe from

while actually
out of the hall
what happened
when I saw
I got very
I think I
I think I

shown to A
as a
shown, but identify the two soldiers who were
accepted JAC

as being the two soldiers in question.
The accused declined to cross-examine
the witness.

E. Desnigre.

Sixteenth Witness for the Prosecution C 32960 L/cpl Morris, F.S.
NO. 1 Provost Coy., Cdn Provost
Corps, having been duly
sworn, states -

I am C 32960 L/cpl Morris,
F.S., member of NO. 1 Provost
Coy, Cdn Provost Corps.

At approximately 1600 hrs
28 October, 1943 as a
member of the stand-to
party I was called out to
investigate the alleged theft
of two razors from a local
barber shop. Along with L/cpl
Bonderand, L/cpl Dudley and
Pte Desnigre I proceeded to
the barber shop. Acting on
information received, we proceeded
down the street and intercepted
two members of the 14th
Cdn Arm'd Regt, one a L/cpl
and the other a Cpl, both
of whom were drunk at the
time of arrest. They were accompanied
by Capt Forbes & Trasher of HQ
1 Cdn Div. The Cpl ran into
an alleyway. While L/cpl Bonderand

because

Lt. T. needs was
promoting for award
minutes after I first
saw him, was
unable to converse long
times on the account,
smelled strongly of
alcohol, needed assistance
in walking on the
street, used abusive
language. On arrival
at the detachment
L/cpl Chester requested
that we forget the
whole affair, and
broke down and
cried.

JAC

34

held the L/Cpl I went in the alleyway and located and held the Cpl who was vomiting. The L/Cpl was escorted to the Provost detachment by L/Cpl Dudley ~~and~~, I believe, ^{and} the Benigne. The Cpl was escorted to the detachment by L/Cpl Bondurant and myself. En route I searched the clothing of the Cpl and located a razor and a lady's shoe in his tunic. On arrival at the detachment the Cpl was handed over to the orderly sergeant, Sgt. D. Henzle. I identify the razor before me as the one that I removed from the Cpl's tunic. I positively identify the Cpl and L/Cpl here before me as the two soldiers in question.

shown here as exhibit A
shown here as exhibit B
exhibit A

The accused declined to cross examine the witness.

F.S. Morris

Eighth Witness for ^{been duly sworn, through police interpreter, Capua of} the Prosecution ^{having} been duly sworn states -

I am Ranallo Emilio, employee of a barber shop. at about 4:30 PM on 28 October 1943, while I was working, three soldiers entered the barber shop. The Cpl sat down in the chair and the L/Cpl started to shave him. While sitting in the chair the Cpl, ~~read~~

jcxc

belonging to me, off the shelf in front of him, putting
 out his hand and took two razors,
 them inside his blouse. I asked the
 Cpl for the razors, and he would
 not give them to me but left the
 shop carrying the razors, followed
 by the 4 Cpl. I then sent a boy to
 report the matter to the police.
 I identify the razor here before me
 as being one of the razors that
 the Cpl took from the barber shop.
 The value of these razors is 70
 lire each. I identify the soldiers
 here before me as the two soldiers
 who were in the barber shop
 when the razors were taken, the
 third soldier only stood by laughing.
 The accused declined to cross
 examine the witnesses.

marked exhibit A

Cpl being the one who took the razors.

Quirico Paucillo
 Pompilio Mandato, having
 been duly sworn, through his interpreter, states
 the Prosecution Pompilio Mandato, owner
 of a barber shop, at about
 4 o'clock in the afternoon
 on 28 October, 1943, three
 soldiers entered my barber
 shop. The Cpl sat down in
 the chair and the 4 Cpl started
 to shave him. While sitting in
 the chair the Cpl reached out his

pcdc

the property of
Pamello Emilio,

land and took two razors, off the shelf in front of him and put the razors in his blouse. I asked the Cpl to give back the razors which he did not, but got up and left my shop, taking the razors with him, followed by the 1st Cpl. I identify the razors here before me, as ^{one of} the razors that the Cpl took from my shop. The value of the razors is about 70 lire each. I identify the two soldiers here before me as the two soldiers who were in the barber shop at the time stated above. The third only stood by.

marked exhibit A

The accused declined to cross-examine the witness.

Povero illo mandato

Tenth Witness for Antonio Farisi, having been duly sworn through police in the presence of the Prosecution ^{and} being duly sworn, states—

I am Antonio Farisi, owner of a clothing store. In the afternoon of 28 October, 1943, two soldiers entered my store. I was showing a shawl, ^{my property} to another Canadian soldier, when the Cpl took the shawl and started toward the door. My father-in-law, ^{Emilio Farangi,} standing by the door, attempted to stop the Cpl taking the shawl from the store but the Cpl gave him a push, or hit him with his fist. When my

shown here as Exhibit D

shown here as Exhibit D

pac

father-in-law fell to the ground
the Cpl left the store, followed by
the Lt/Cpl. I went to look for the
police, but could not find any. Apparently
the police retrieved the shawl from
the soldiers and gave it to my son,
Fernando Palange, who is about twelve
years old. I identify these soldiers before
me as being the two soldiers in
question.

The accused declined to cross examine
the witness. Pain: Antonio

Eminent Witness for Lieut. F. R. Swinnerton,
the Prosecution, 112 Pronost Coy, 13 Corps,
having been duly sworn,
states -

I am Lieut. F. R. Swinnerton, 112
Pronost Coy, 13 Corps. On the late
afternoon of 28 October, 1943, I was
driving along a street when I saw
a gathering of soldiers and civilians.
There appeared to be a fight in
progress, and, on stopping, I saw
two Canadian soldiers struggling
with two N.C.O.'s of the Cdr Pronost
Corps. There was an officer present
and it was apparent that by
absence of his hat and cut on
forehead that he had been involved.
The above mentioned soldiers appeared
to be violently resisting arrest and
the Cpl by violently struggling with the Pronost and
endeavouring to break their hold on him.

JAC

the officer accepted my assistance
 with help of my batman I placed
 the 1/cpl ~~above mentioned~~ ^{7637420 1/cpl E. Adalsad} forcibly into my car and
 conducted him to Cdr Phonest H.B.
~~where~~. He was handed over to Lieut.
 pay. I identify the soldiers here
 before me as the two soldiers who
 are mentioned above.

During the
 trip I was
 necessary
 to retain my
 custody
 all on this
 1/cpl.

The accused declined to cross
 examine the witness.

Gaul. L. Linnertu.

T. Melbuth Witness for Palange Emilio having
 the Prosecution. ^{been duly sworn, through police interpreting, Caruso}
^{Ernanice, being duly sworn, states -}

I am Palange Emilio, fish
 merchant in Campobasso, at
 about 4.30 P.M. of 28 October,
 1973 two soldiers entered the
 store of my son-in-law,
 Antonio Parisi. After some
 discussion with my son-in-law,
 one of the soldiers, as far as
 I could see, the Cpl., took a
 shawl from my son-in-law's
 and started toward the door. My
 son-in-law called to me to
 get the shawl from the soldiers,
 or payment for same, which I tried
 to do, but the Cpl punched me in
 the eye with his fist, and knocked
 me to the floor. I know nothing

property of
 Antonio Parisi
 shown here as
 Exhibit D

JAC

of what happened after that as my eye was hurting too much to see. I identify the two soldiers here before me as the two soldiers who were in the store, and the Cpl is the one who hit me, the L/Cpl did no harm at all. The accused declined to cross-examine the witness.
Emilio Babanyi

T. Thirteenth Witness for
the Prosecution

GIUSEPPE DEL GRECO, manager
Grande Albergo, Campobasso,

having been duly sworn, through
police interpreter, Caruso Domenico,
being duly sworn, states —
I am Giuseppe Del Greco, manager
of Grande Albergo, in Campobasso.
At about five o'clock in the
afternoon of 28 October, 1943,
while talking to Capt. Thrasher
inside the lobby of the hotel, I
heard a noise which sounded
like the breaking of glass. I went
outside and saw a soldier kicking
at the dining room entrance door
which is permanently locked. I went
back inside the lobby and called
to Capt. Thrasher. When coming out
of the door to the street again I
saw another soldier trying to take
the first one away and both soldiers
disappeared around the street corner, but
the one who had taken the first one
away returned and I pointed him out
to Capt. Thrasher who was then outside.

JAC

1943

I certify that the foregoing summary of evidence
concerning of a letter bag was taken down by me on the
presence of the accused and that under the procedure
of the court I have been completely satisfied that
the above is a true and correct copy of the
original as shown to me on the
11th day of August, 1943
J. Edgar Hoover
Special Agent in Charge

~~Enclosed for the file of the accused~~

The accused was cautioned as follows:—
Do you wish to make any statement or give evidence
in your own defence? You are not obliged to say anything unless
you wish to do so, but what you say will be taken down and
used against you if you do not give evidence.
The accused replied that he had nothing to say or any evidence to give.

George Dick Jones

The accused declined to answer the questions.

The door on mentioned above
of the address who was kicking
and Jerry Lee. I cannot be
of damage in three hundred
pounds. An approximate estimate
6 ft. by 3 ft in size, placed
the glass in it, approximately
was kicking the door and broken
back made the hole. The address,
the address left and I went
had gone. Then Capt. Abraham and
told him where the first address
the same and insisted that he
Capt. Abraham hit the address by
the hole in the street. Whose

J. Campbell Esq.
Judge Advocate

W. B. K. May
Plt. Major

M.F.B. 355
22M-541 (572-3)
H.Q. 1772-39-620
A.F.D. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number ME7078 Rank Cpl. Name Tweedy K. S. Regiment (or unit) 14th. Sqn., ARMY Tank Regt. (The Calgarys Regt. (Tank) C.A.C.

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

Within last 12 months	Since enlistment or appointment
For <u>NIL</u> times	Since enlistment or appointment <u>NIL</u> times
For _____ times	_____ times
For _____ times	_____ times
For _____ times	_____ times

Number of instances of gallantry or distinguished conduct NIL
or,

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

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted
or,

^{or} Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ^{Air Force Act} Army Act and dispensations with trial under ^{A.F.A. 73} A.A. 73 are set out in the Schedule annexed to this statement.

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

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

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

5. The present age of the accused according to his ^{or} record of service in attestation paper is 23 YRS, 159 DAYS

6. The date of his ^{or} commission specified in his record of service is 26 Feb. 1941

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

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

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

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

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated and in his regiment (or corps), the rank of N/A dated

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

1 Oct. 1943 Date of promotion.

In the rank of A/Spl. 1/4 years.

In the rank of Spl. 11/12 years.

In the rank of years.

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number 227078 Rank Cpl. Name Tweedy K.S. of 14th Cdn. Army Tank Regt. Regiment

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

Description of Court by which tried	Date and Place of Trial	Class or grade which convicted	Sentence of the Court	Punishment Remitted
NIL				

Evidence in the case of:--

227078 Cpl. Tweedy K.S.
14th Cdn. Army Tank Regt.
(The Calgary Regt. (Tank) CAC)

List Of Exhibits

- (a) 1 Razor.
- (b) 1 Ladies Black Shoe.
- (c) 1 Pr. Ladies Brown Shoes.
- (d) 1 Scarf.

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

Signed this 15th day of Nov. 1943 day of November, 1943

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

KK-58

KK-59

PTE TWISS J.



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

PROCEEDINGS.

On Active Service, this Eighth day of JULY 19 43

A.

Order convening the Court.

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

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

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

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

* Omit if not applicable.

~~I am unable to appoint—~~

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

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

for the following reasons, namely:—

Proceedings Permitted

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

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

Rank.	Name.	Regiment.
Major	V.R. Jones, K.C.	1 C.A.S.C.R.U.
<i>Members.</i>		
Rank.	Name.	Regiment.
A Captain	FROM	1 C.S.R.U.
A Lieutenant	FROM	1 C.S.R.U.

*Signed: *H.R. Tyner*
(H.R. Tyner) Colonel
Commanding B Gp, C.R.U.
Convening Officer.



2

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.91741 Pte. TWISS, John, Thomas 1 C.A.S.C.R.U.	First Charge A.A. Sec. 22	GUILTY	GUILTY	Confirmed. Sentence concurrent 14 Jul 43 P. D. King
	Second Charge A.A. Sec. 15(1)	GUILTY	GUILTY	Found guilty detention for ninety (90) days. 10 Jul 43. P. D. King
	See Attached Charge Sheet			

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

(Signed) H.R. Tyrer (Signed) P. D. King
A. Commanding B. Gp C.R.U. President.

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

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

3

I certify that the above Court assembled on the 10th day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.

Certificate of President as to proceedings.

I also certify that :-

- The members of the Court
- The witnesses u/y
- ~~The interpreter~~ u/y
- The officers under instruction

were duly sworn.

Signed this 10th day of July 1943.

P. D. King
President of the Court Martial.

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

C.

Certificate in case of death sentences.

Signed this _____ day of _____ 19____

P. D. King
President of the Court Martial.

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

D.

Confirmative

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

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

Signed this 14 day of Jul 19 43.

P. D. King
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 16 July 1943. (Signed) W. C. F. Hatcher

Promulgated and extracts taken in the case of

(Dated) 20.11.43 1943. (Signed) P. D. King

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

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

C. 109.

B.

W. H. Bennett
Major General

CHARGE SHEET

The accused, D-91741 Pte. John Thomas TWISS, RCASC, 1 Cdn ASC Rft Unit, a soldier of the Can Army, Overseas, is charged with:

WHEN ON ACTIVE SERVICE

1st Charge
A.A.
Sec. 22

WHEN IN CONFINEMENT ESCAPING

in that he, at Farnborough, Hampshire, on 29 June 43, when in confinement at Unit Guard Room, 1 Cdn ASC Rft Unit, escaped.

2nd Charge
A.A.
Sec. 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he, at Farnborough, Hampshire, absented himself without leave from 0615 hrs 29 June 43 until 1715 hrs 3 July 43, when he voluntarily surrendered himself to the Civil Police at Oxted, Surrey. Total time absent - 4 days 12 hrs. Cost of Apprehension - 4 shillings 11 pence.

W. H. Bennett
(H.F. Bonnick) Lt-Col.
Commanding, 2 Trng. Wing,
1 Cdn ASC Rft Unit.

To be tried by Field General Court Martial.
8 July 43

Farnborough, Hampshire
6 July 43.

H.R. Tyner
(H.R. Tyner) Colonel
A/Comd B Gp
Cdn Rft Units.

W. H. Bennett
Major General

Medical Officers' Certificate.
H.K. (Can.) Para 557

I certify that I have this morning examined No. D.91741 Pte. Twiss, J. of 1. C.A.S.C. Rft Unit and in my opinion he is fit to undergo trial by court martial.

station. Blenheim Bks.

Date. 10 July 43

Sgt. *T. W. Dalmond*
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT 1 CERU *Fort Belknap Barracks, Cal.*
ON THE 10th DAY OF *July* 1943

The accused, *D. J. W. H. Lt. Tamm, J. T.*... Unit. *1. C. A. S. C. R. V.*.....

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

The accused is brought before the Court.

The Medical Certificate is laid before the Court.

The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.

The Court is duly sworn.

The following constitute the Court:-

President, *Major V. R. Jones, M.C.*... Unit. *1. C. A. S. C. R. V.*.....

Members, *Capt. W. T. Haddock*... Unit. *1. C. A. S. C. R. V.*.....

Lieut. A. B. Patterson... Unit. *1. C. A. S. C. R. V.*.....

The officers under instruction are duly sworn:-

Lieut. A. M. Lamson... Unit. *1. C. A. S. C. R. V.*.....

Lieut. R. M. Beck... Unit. *1. C. A. S. C. R. V.*.....

Prosecutor, *Lieut. J. A. Fitzgerald*... Unit. *1. C. A. S. C. R. V.*.....

Defending Officer, *Lieut. W. A. Donald*... Unit. *1. C. A. S. C. R. V.*.....

The charge sheet is signed by the President and the accused is arraigned.

The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.

The accused does not desire to make a statement in reference to the charge(s), R.P. 37(B).

The Summary of Evidence is read.

The Prosecutor produces MPB 355, APB 296 and MFM 6.

The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

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

O/S R.C. was complied with. No 32b2

The Court is closed to consider the sentence.

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

attached hereto and marked H. I + 5

J. S. May Jr.
President

Statement of D 91741 The Times J. 1

H. J. 1943
5 major incident.

on 20 March 43, Sir I was apprehended in Farnborough
and they placed me under close arrest.
The charge was striking an NCO and
refusing to identify yourself. on 7 April 43
I had a court martial and a couple of days
after I received a sentence after formalization
to 9 months detention. I tried to appeal
the case Sir, I put in an appeal through
my C.O. and he told me he would take it
up with C.R.V. For ^{approximately} 2 months and 17 days
I have been waiting for an appeal and it
seems there was nothing done about it
so far. I done all I could to go through
proper channels to get an appeal and
it didn't seem to work so the only
thing I could figure out was to
go absent so that I could bring it
up before the Court and have another
chance. I figure Sir on my last Court
Martial I didn't get a square deal.
The only thing I can do is ask the Court if
they can do anything about my other
Court Martial. I have been two years
without a crime and the only reason I
went A.W.L. was to see if I could get any
action on my other Court Martial as I have been
trying for nearly three months.

J. H. 1943

Sgt James Cecil Sander sworn.
I am the NCO i/c Regt Police at I
CASCRU. while the accused was in
the detention barracks his conduct was
satisfactory in all respects.

* examined.
Q. Was the conduct of the accused the average
conduct in the guard room

A. Previous to his break, Sir, Yes
re-examined.

Q. I understood that the conduct of the accused
was better than average
A. No Sir I wouldn't say that, he was just
an average prisoner.

J. Sander Sgt

I
S. M. J.
Majr.
Presd

Enclosed - D-81741 & wires of 1.

STATEMENT IN MITIGATION

by Defendant's Officer

J. H. Long
Major
President

In mitigation of punishment the accused would plead the courts' consideration of certain extenuating circumstances in this case.

1. The accused D-81741 Pte. John Thomas TWISS, absented himself without leave on the assumption that by such conduct he would obtain audience and have opportunity to bring to the attention of the court a matter which he felt was not being conducted to his interests.

2. I submit that this action was ill advised and based on the accused's misunderstanding of the jurisdiction of this court together with a lack of knowledge regarding the delays which can occur and which do occur as a document proceeds on its way through the normal Army Channels of Communication.

3. On 7 Apr. 43 the accused was sentenced by Court Martial for offences under the Army Act to nine (9) months detention with stoppages of pay amounting to 292 days. On 12 Apr. 43 he entered the plea for a reconvention of the court. Two months and 17 days from that date -- on 29 Jun 43 he had served 2 months 22 days of his sentence and despite a multitude of local proceedings he had not yet been given a definite answer to his plea.

4. Two months and 17 days is a long time for even an army plee to hang fire. Pte. Twiss did not have much confidence in further promises. His conduct while under detention had been good -- his plee had been recommended by senior officers -- if he waited much longer his wife's and ten month old daughter's allowance would be stopped. In his mind the opportunity of bringing the matter to a head presented itself. He took it and after four days surrendered himself and awaited events.

5. In laying himself at the mercy of the Court the accused asks that these facts be given consideration. The offences were hastily considered "means to an end". There was no real criminal intention attached to them. In accordance with the Preliminary Objection raised by the accused to the framing of the charges as two separate charges despite sub-note 3 sec 22 of the Army Act makes his offence more serious than the circumstances might warrant and is construed by the defence as being ^{note} unfair & prejudicial to the accused ^{than is necessary} in this instance.

In conclusion may it be brought to the court's attention that the record of the accused as shown in the Crime Sheet is centred around the period Jan 40 to Aug 41 & since that time has with the exceptions of one civil charge been comparatively clean ~~and without~~

Ad Donald H. B.
1 CASE RD.

CERTIFICATE UNDER THE ARMY ACT, SECTION 168 (1) (C)

I, certify that
Reg. No. D 91741 Rank Pte. Name Twiss, J.T.
REGIMENT No. 1. C.A.S.C.R.U.
UNIT XX Royal Canadian Army Service Corps
STATIONED AT
Surrendered himself to No. 378 Rank P.C. Name Langley,
of the Oxted Surrey Civil Police.
on the 3rd. day of July 1943, at 17.15 hrs hours Oxted Surrey.
..... AS AN ARRESTEE WITHOUT LEAVE

at the time of his surrender he was wearing (Military Uniform) or ~~other~~
~~Signature of Provost-Marshal, Assistant Provost-Marshal or other~~
Signature of the Commanding Officer of the portion of His Majesty's
Forces or the officer, warrant-officer or non-commissioned officer in
charge of the detachment of the Canadian Provost Corps, Canadian Army
into whose custody ~~he was taken on surrender.~~
(Strike out part inapplicable)

W. Langley Lieut.
Officer in Detention Room,
No. 6 Cdn. Provost Coy.

Ekke A. Wf.

Expense Voucher Re-

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

Reg. No. 119741 Rank Pte Name Tomas, J.T. Unit 1 CASCOThe following expenses were incurred in apprehending and returning the M/N Soldier to his
(Unit: Essex) London from Oxted

Date	Particulars	Amount	
5 July 41	Escorts return fare from LONDON To Oxted		
	Prisoners single fare to LONDON From Oxted	3	3
	Prisoners fare from To	1	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £		4 11

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

W. H. M. W. H. M. Capt.
 Officer Issuing Railway Warrant and Expense monies
 No. 6 Provost Company, Canadian Provost Corps, London.

E. J. Frizzell
Majr

SUMMARY OF EVIDENCE

In the case of
D-91741 Pte John Thomas TWISS, RCASC, 1 Cdn ASC
Rft Unit, Blenheim Barracks, Farnborough,
Hampshire.

The Commanding Officer, Colonel J.M.
Pocock, directs that the evidence be taken on
oath:

I am Lieut. J.K. Frizzell, RCASC, 1 Cdn
ASC Rft Unit and I produce the undermentioned
documents:

Exhibit "A"

Certificate in accordance with Army Act, Sec.
163 (I)(J), purporting to be signed by Capt.
W. Fern, DAPM London Area, showing the accused,
D-91741 Pte. Twiss, J.T. surrendering himself
at 1715 hrs, 3 July 45, to the Oxford Survey
Civil Police.

Exhibit "B"

QMSA Form 1000:55, Expense Voucher, purporting
to be signed by Capt. W. Fern, DAPM London Area,
showing expenses to the amount of 4 shillings
11 pence, incurred in apprehending and returning
of the accused, D-91741 Pte. Twiss, J.T. to
his Unit.

I certify that in my opinion the attendance
of Capt. W. Fern, DAPM London Area, is, owing to
expense and loss of time involved, not readily
procurable, and a written statement of his evidence,
signed by him, has been read to the accused and
attached hereto, marked exhibits "A" and "B".

John K. Frizzell, Lt
.....
(Lieut. J.K. Frizzell) RCASC,
1 Cdn ASC Rft Unit.

I do not require the attendance of
Capt. W. Fern, DAPM London Area, for the purpose
of cross examination.

J. T. Twiss
.....
(D-91741 Pte. Twiss, J.T.)
1 Cdn ASC Rft Unit.

SUMMARY OF EVIDENCE in the case of D-91741 Pte. TWISS, J.T.

1st Witness
For the
Prosecution

C-12230 Cpl Bonnah, W.J., RCASC, 1 Cdn ASC Rft Unit,
having been duly sworn, states:

I am C-12230 Cpl Bonnah, W.J., NCO 1/c #2 Guard Room, 1 Cdn ASC Rft Unit. On 28 June 43, at approximately 2100 hrs, I checked the main cell at #2 Guard Room and found everyone present, including the accused, D-91741 Pte. Twiss, J.T., whom I now recognize. I also checked the windows at the same time and they were in order. At 2359 hrs, 28 June 43, I again checked the windows in the guard room before going to bed and found them in order.

At approximately 0500 hrs 29 June 43, I was awakened by Pte. Paton, who was on duty as regimental police in the guard room. He told me that the wires over the window above the urinal room which leads out of the main cell had been moved. I went into the main cell and went into the urinal room and checked this window and found it had been tampered with. I then checked the personnel in the main cell and found that the bed of the accused had been made up in the form of a man by the use of calliasses, but the accused was not there. At 0515 hrs 29 June 43, I went and reported the absence of the accused to Sgt. Snider, NCO 1/c of all Guard Rooms. I also reported to the Orderly Officer.

The accused declines to cross examine this witness.

Cpl. Bonnah, W.J.
(C-12230 Cpl Bonnah, W.J.)
1 Cdn ASC Rft Unit.

2nd Witness
For the
Prosecution

L-41342 L/Cpl Bigler, C.L., RCASC, 1 Cdn ASC Rft Unit,
having been duly sworn, states:

I am L-41342 L/Cpl Bigler, C.L. NCO 1/c Desk of #2 Guard Room, 1 Cdn ASC Rft Unit. I was on duty from 1000 hrs 28 June 43 until 0100 hrs 29 June 43 at #2 Guard Room. At 2100 hrs 28 June 43, I checked the prisoners in the main cell by means of a roll call and all were present including the accused, D-91741 Pte. Twiss, J.T., whom I now recognize. At 2330 hrs 28 June 43, I again checked the main cell and everything seemed in order, but did not make a roll call. At 0030 hrs, 29 June 43, I checked the main cell and exercise yard finding everything in order, but did not make a roll call as prisoners were asleep. Pte. Marquis, relieved me at 0100 hrs 29 June and at approximately 0500 hrs 29 June he awakened me and told me that the accused was absent and missing. I checked the big cell and found the accused was not there, and I notified Cpl Bonnah, NCO 1/c #2 Guard Room immediately.

The accused declines to cross examine this witness.

L/Cpl Bigler, C.L.
(L-41342 L/Cpl Bigler, C.L.)
1 Cdn ASC Rft Unit.

SUMMARY OF EVIDENCE in the case of D-91741 Pte TWISS, J.T.

3rd Witness

For the Prosecution A-103191 Pte. Marquis, J.A., RCASC, 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am A-103191 Pte. Marquis, J.A., employed on regimental police duties, #2 Guard Room, 1 Cdn ASC Rft Unit. I was on duty from 0601 hrs 29 June 43 until 0700 hrs 29 June 43. At approximately 0601 hrs 29 June 43, I checked the main cell also the exercise yard and everything seemed in order. I did not make a roll call of the prisoners at that hour. At 0130 hrs 29 June 43, I again checked the main cell and exercise yard and did likewise at 0300 hrs, but I did not make a roll call on these occasions. I was relieved of my duty at approximately 0300 hrs 29 June 43 by Pte. Paton. At 0500 hrs 29 June 43, I was awakened by Pte. Paton who asked me to come on duty again as a prisoner wanted to go to the lavatory. At this time, I checked the cell and also the exercise yard and I noticed that the wire around the window in the urinal room leading off from the main cell had been moved. I notified Cpl Bigler, NCO I/C desk and he checked the cell and found that the accused was not there.

The accused declines to cross examine this witness.

Pte. Marquis, J.A.
(A-103191 Pte. Marquis, J.A.)
1 Cdn ASC Rft Unit.

4th Witness

For the Prosecution H-100969 Pte. Paton, G.R., RCASC, 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am H-100969 Pte. Paton, G.R. employed on regimental police duties, #2 Guard Room, 1 Cdn ASC Rft Unit. I was on duty from 0700 hrs to 0730 hrs 29 June 43. I locked into the main cell at around 0700 hrs and everything appeared to be in order, and all prisoners seemed to be present. I did not enter the main cell again until around 0800 hrs 29 June 43, when Pte. Schiff asked me to go to the lavatory. I awakened Pte. Marquis to assist me on guard duties. In the meantime I had taken Pte. Schiff to the lavatory. While doing this, Pte. Marquis told me that the wire over the window in the urinal room leading off from the main cell had been tampered with. I went out to examine it and saw that it had been moved. I awakened Cpl Bonnah and told him that the wire had been moved. Cpl Bonnah then checked the wire and then checked the cell and found that the accused, D-91741 Pte. Twiss, J.T., whom I now recognize, was not in his bed, but had a biscuit rolled up in the bed. The cell was checked and the accused was found missing at approximately 0815 hrs 29 June 43.

The accused declines to cross examine this witness.

G.R. Paton
(H-100969 Pte. Paton, G.R.)
1 Cdn ASC Rft Unit.

WJ

SUMMARY OF EVIDENCE in the case of D-91741 Pte. TWISS, J.T

The accused, D-91741 Pte. Twiss, J.T., RCASC, 1 Can ASC Rft Unit was then warned in accordance with R.F. 4 (c):

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

A. "I do not wish to make any statement at this time."

J. T. Twiss
(D-91741 Pte. Twiss, J.T.)
1 Can ASC Rft Unit.

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing on the 6 July 43, 1 Can ASC Rft Unit, in the presence and hearing of the accused, and that R.F. 4 (c)(d)(e) (f) and (g) have been complied with.

John K. Frizzell
(Lieut. J.K. Frizzell) RCASC,
1 Can ASC Rft Unit.

I, D-91741 Pte. Twiss, J.T., RCASC, 1 Can ASC Rft Unit, desire the assignment of an officer to represent me at my forthcoming trial by Court Martial. I desire Capt J H Rocks to defend me if available.

J. T. Twiss
(D-91741 Pte. Twiss, J.T.)
1 Can ASC Rft Unit.

LIST OF WITNESSES

For the Prosecution - C-12230 Cpl Bonnah, W.J.
L-41142 L/Cpl Bisler, C.L.
A-105191 Pte Marquis, J.A.
H-100969 Pte Paton, C.R. -
All of 1 Can ASC Rft Unit, Bleasheim Brks.
Farnborough, Hants.

For the Defence - N I L

LIST OF EXHIBITS:

Exhibit "A1" - Certificate in accordance with Army Act, Sec. 163 (I)(J)
Exhibit "B" - OMRQ Form 1000:55.

J. H. Rocks
Major
President

Farnborough, Hampshire.
6 July 43.

SHEET DESTROYED 10-6-42 LAST ENTRY 21-3-40
 No. D-9124 Name Twiss, J.

Sgt., Battery,
 or Company

G. H. ...
 Corps R.C.M.C.

Date of
 enlistment

13-1-40

G.C.
 Badges

Service or
 Proficiency Pay } 2

M.F.M. 6
 A.F.B. 121
 11257 7-41 (1119-20)
 H.Q. 1171-59-1693

Date of last entry in
 Company Conduct Sheet

No. and date
 of last drunk

Period not reckoning towards
 freedom from extra fine

Sheet No.

Signature O.C.
 Company, etc.

Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Godstone	29-7-40	Pte.		A.A. 15 absent from parade at 2100 hrs another man leaving to take his place	Cpl. Mcgregor	5 days Det.	30-7-40	Maj. Hallam	1 days pay
Godstone	15-8-40	Pte.		A.A. 15 failed to appear for guard duty.	Cpl. Mcgregor	5 days F.F. 6 days pay.	17-8-40	Maj. Hallam	
Tanbridge	21-9-40	Pte.		A.A. 40 Conduct etc. Willfully fired his rifle without auth.	Cpl. Robinson	7 days G.D. 3 days pay	23-9-40	Capt. Robinson	
Field	2-10-40	Pte.		A.A. 40 He stripped his rifle without proper authority.	L/Cpl. Cannon	5 days F.F. 3 days pay	5-10-40	Maj. Hallam	
Field	30-11-40	Pte.		A.A. 15 Failed to appear on Church Parade 0830 hrs. 6-10-40 A.A. 15 0800 hrs 30-11-40 to 1830 hrs. 30-11-40	Sgt. Richards	5 days F.F. 5 days pay	3-12-40	Capt. Allan	1 days pay.

(PTA)

Place	Date of offence	Rank	Case of offence	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-12-40	Sgt.	A.A.40	Conduct to the etc.	Capt. Partington	on 3 days pay	11-12-40	Capt. Allen	
Field	13-1-41	Sgt.	A.A.40	Smoking on duty and continued to smoke when approached by an officer.	Capt. Partington	14 days F.P.	16-1-41	Maj. Dean	
Field	29-1-41		A.A.15	2230 hrs. till 0115 hrs 30-1-41	Cpl. Richards	14 days CB.	30-1-41	Capt. Partington	
Field	9-1-41	Sgt.		Convicted by the court of Summary Jurisdiction sitting at Reigate of driving without a licence. Find 10/- & party of insurance against 3rd party risks.		Court of Summary Jurisdiction Reigate.			
Field	16-2-41		A.A.15	2200 hrs to 2255 hrs 16-2-41 till 16-2-41	Cpl. Christian Cpl. Cannon	14 days C.S.	17-2-41	Capt. Partington.	1 days pay
Field	20-4-41		A.A.15	2230 hrs to 2250 hrs 20-4-41	L/Cpl. Benson	7 days F.P. 7 days pay 72 hrs. F.P.	22-4-41 26-4-41	Maj. Dean Maj. Dean	3 days pay.
Field	26-4-41	Sgt.	A.A.40	did refuse to proceed on duty when ordered to do so.					

CERTIFIED TRUE COPY

No. 01241 Name **Twiss John**

Sgt., Battery,
or Company

Corps R.C.A.C.

Period not reckoning towards
freedom from extra fine

W.F.
Date of enlistment } 13 Jan 40
Sheet No. } G.C. Badge
Signature G.C.
Company, etc.

Sheet No. 1
Service or
Proficiency Pay

Character

M.F.M. 6
A.F.M. 1221
FORM 7-31 (1719-20)
H.Q. 1171-30-1007

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-6-41	Pte.		Innocent to be an officer. Failed to carry out proper maintenance on his lorry. Losing accessories from his lorry. Failed to have his haircut when order to do so.	Sgt. West	28 days DTY 28 days P.A.	6-6-41	S.I. Dept.	
Field	7-8-42	Pte.		Sec. 40 A.A. - sentenced to one month imprisonment for assaulting Police Constable and fined £1 or in default 7 days imprisonment for drunk and disorderly. Sentences to run concurrently.	Alger shot Police Court.		10-8-41	Civil Authority.	

Place	Date of offense	Rank	Charge or description	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9-3-43	Pte.		Sec. 15(1) AW ^m from 2200 hrs. 9 Sep 43 to 2330 hrs. 9 "er 43. TPA 1 hr 30 min.	Documentary Cpl. Palmer.	6 days C.D.	10-3-43	A.W. Dwyer	Capt.
				<u>CERTIFIED TRUE COPY OF ORIGINAL.</u>					
Field	20-Mar-43	Pte.		A.A. Sec. 8(2) striking a superior officer A.A. Sec. 9(2) disobeying a lawful command given him by his superior officer. CERTIFIED TRUE COPY.	Documentary	to undergo detention for 9 months	7-4-43	F.O.C. ^m	Forf. 275 days pay FR&I 149(1)(b) Forf. 17 days pay FR&I 149(1)(c)(ii)
								<i>C. H. Williams</i> Capt. Officer in Charge Records, 1 Cdn. ASC Aft. Unit.	

W.P.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
 Permanent Force
 unit
 dated and in his regiment (or corps), the rank of
 dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the
 present date:— Date of promotion:

In the rank of years.

In the rank of years.

In the rank of years.

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army
 Act, and of cases in which trial has been dispensed with of accused, Number D-91241 Rank PFC.
 Name TRISS, JOHN. of 1 Cdn. ASC Rit. Unit. Regiment
 Unit

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Police Court.	Aldershot 7 Aug. 42.	Assaulting P.C. drunk and disorderly	one month imprisonment or in default 7 days for being drunk. sentences concurrent.	
Crt. of Summary Jurisdiction	9 Jan 41 Raigate.	Driving without s licence.	Fine 10s.	
P.C.C.M.	7-4-43 Earthborough, HANTS.	A.A. Sec. 8 (2) A.A. Sec 9 (2)	to undergo 9 months detention	N/A

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

Signed this 10 day of July 1943 *[Signature]*
 1 Cdn. ASC Rit. Unit.

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

2

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
<p><i>atk</i></p> <p>D-9741 Pte. TWISS, John 1 G.A.S.C.R.U.</p>	<p>First Charge A.A. Sec B(2)</p>	<p><i>Not Guilty</i></p>	<p><i>Guilty</i></p>	<p><i>Confirmed H.A. Jynes 10 Apr 43 Bol</i></p>
	<p>Second Charge A.A. Sec B(2)</p>	<p><i>Not Guilty</i></p>	<p><i>Guilty</i></p> <p><i>Nine Months Detention</i></p> <p><i>7 Apr 43</i></p> <p><i>H. F. Lillis Majr</i></p>	
	<p><u>See attached Charge Sheet</u></p>			

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

(Signed)

R.R. Shields
 (R.R. Shields) Brig
 Commanding B Gp Cdn Rft Units
 Convening Officer (e)

(Signed)

H. F. Lillis Major Recs
 1 CSRU
 President.

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

CHARGE SHEET

The accused, D.91741 Pte. Twiss, J.T., 1 CASBGRU,
a soldier of the Canadian Army Overseas, is
charged with:

438
P. G. Shields
Major
Pres FGCM

WHEN ON ACTIVE SERVICE

1st Charge
A.A. Sec. 8(2)

STRIKING HIS SUPERIOR OFFICER

in that he at Farnborough, Hants, at approximately
1000 hrs 20 Mar 43 when arrested and placed under
escort by M-20765 Sjt. Starcher, C.P. Cdn. Barrack
Services, did strike the said Serjeant.

2nd Charge
A.A. Sec. 9(2)

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS
SUPERIOR OFFICER

in that he at Farnborough, Hants, at approximately
1000 hrs 20 Mar 43 did not produce his Pay Book
or otherwise identify himself, when ordered to do
so by M-20765 Sjt. Starcher, C.P. Cdn. Barrack
Services.

Farnborough, Hants.
31 Mar 43.

H.P. Bonnick
(H.P. Bonnick) Lt-col,
Commanding,
1 Cdn. A.S.C. Rft. Unit.

To be tried by Field General Court Martial.

P.B. Shields
(P.B. Shields) Brig
Comd
5 Gp Cdn Rft Units
Convening Officer

3 Apr 43

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT ALDERBURY, HANTS, 7th DAY OF APRIL, 1943

Trial of D-91741 Pte Twiss, J.T., No 1 Cdn Army
Service Corps Reinforcement Unit.

Court

<u>President</u>	: Major R.G. Lillie ROCS	No 1 CCRU
<u>Member</u>	: Capt A. Nicholls	No 1 CCRU
<u>Member</u>	: Lieut. W.M. Gilchrist	No 1 CCRU
<u>Prosecutor</u>	: Lieut. W.H. Harper	No 1 CASCRU
<u>Defending Offr</u>	: Capt. J. Jennings	No 1 CASCRU
<u>Offr under Instruction</u>	: Lieut. J.C. Hanson	No 1 CASCRU

The order convening the Court, charge sheet, summary of evidence, and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.F. 22, 23. The accused is brought before the Court. At 0945 hrs the trial commences.

The convening order is read in the presence of the accused.

The accused does NOT object to the President or Members of the Court.

The Court and officer under instruction are sworn. The accused answers to his name and number. It is noted that the number appearing in the margin of A.F. 35 varies from that shown on the charge, which is ascertained to be the accused's proper number. Page 1 of A.F. 35 is changed accordingly. Similarly Page 2 A.F. 35 is amended.

The accused is arraigned on the 1st Charge.

The accused pleads Not Guilty to the charge.

The accused is arraigned on the second charge.

The accused pleads Not Guilty to the second charge.

R.F. 39(A) is complied with. The accused states that he does not wish to apply for an adjournment.

First Witness
Prosecution

M-20765 Sgt. Starcher C.P., Cdn Barrack Services, having been duly sworn, states:

On the morning of 20 Mar 43 I noticed a commotion in the Church of England Canteen on Lynsford Rd, Farnborough. I saw the accused at the counter arguing with the manager Mr. Rogers. I didn't take immediate action, hoping that the thing would die down. However it kept getting worse. The accused was using improper language. They came to a position near where I was standing and as the accused kept using improper and threatening language I stepped between them and ordered the accused to leave the premises. He refused to comply and directed his threatening attitude towards myself. I then asked for his number, name and address and he refused to give them to me. I then asked him to accompany me to his unit orderly room. He did then leave the building with me. All this time his attitude was threatening and insubordinate. I did not know what company Pte Twiss belonged to but assumed it must be one of the companies located in Napier Square, which property adjoins that of the Canteen. We walked towards Napier Sq. All the while Pte Twiss continued his disrespectful speech and appreciating that he might try to cause trouble, coming upon some soldiers standing by I stopped to have two fall in for escort duty. It was while doing this that Pte Twiss struck me, and continued to do so until taken in hand by Cpl. Ray and Pte Richardson. From there the accused was taken to No. 6 Coy orderly room which proved to be his company. There he was turned over to C.S.M. and placed

R-8 UNIT

under close arrest.

Cross-Examined by Defending officer:

- Q. Did you know the accused before 20 Mar 43? A. No sir.
- Q. Whose idea was it to go to the company orderly room from the canteen? A. Mine. I thought I could get his regimental number and name there (in the canteen) but when I could not, I had to take him.
- Q. What words did you use when you placed him under arrest? A. When we were outside the canteen I told him he was under arrest.
- Q. Until that time he had just been accompanying you? A. Yes.
- Q. What was the wording of your order in the canteen? A. You had better come along with me.
- Q. Do you consider that an order? A. Yes sir.
- Q. Did accused show any objections to coming with you? A. He did at first. There is some confusion at a time like that. First I made a motion to leave the place and then I had to go back and be more insistent upon him coming. He did follow.
- Q. Did you place him under open or closed arrest outside the canteen? A. I didn't specify.
- Q. What caused you to place him under arrest outside the canteen? A. He became more abusive.
- Q. What witnesses were there? A. None sir.
- Q. What did you intend doing with him? A. Turn him over to his Company Serjeant-Major.
- Q. You were going to march him directly to his company orderly room? A. Yes.
- Q. Why didn't you get an escort then? A. His attitude didn't warrant it until later on.
- Q. Why did you march him towards Napier Sq? A. I knew there was a company orderly room there.
- Q. In what manner did you escort him towards that orderly room? A. We walked along side by side.
- Q. Did accused offer any objection? A. No, he kept on threatening.
- Q. Why did you take hold of him. A. I didn't.
- Q. At no point? A. At no point sir.
- Q. Can you tell me where these men were standing? A. About one third of the way from the canteen to the orderly room, about one hundred yards.
- Q. How many men were in the group? A. About four or five. I do not remember exactly.
- Q. You first saw them when you came around the corner? A. Yes.
- Q. Did you stop as soon as you saw them? A. Yes, immediately.
- Q. Were the men you eventually used as escorts in that group? A. No sir.
- Q. Where were they? A. In a doorway further down the square.
- Q. Did you see them too? A. No sir not until they came up and took over the accused.
- Q. Why did the men in the group not act on your order? A. Pte Twiss struck me before they had time to act.
- Q. Who struck the blows. A. Pte Twiss sir.
- Q. Did you at any time strike back? A. No sir.
- Q. Did he knock you down? A. I did land on the ground. I partly tripped.
- Q. Did you give the escort any orders? A. After they had taken hold of him.
- Q. From then on what happened? A. We took him to the barrack room to get his tunic and then took him to his orderly room.
- Q. How did you find out where his orderly room was. A. Pte Twiss told us.
- Q. When did he tell you. A. After the escort had taken him in hand.
- Q. Do you remember the wording of the accused's refusal to identify himself in the canteen? A. No, I don't remember the exact wording sir.

NO RE-EXAMINATION.

RULE 83(B) COMPLIED WITH

Cdn Barracks Services

M-20771 Sgt Moulding W.F./having been duly sworn states:

2nd Witness
Prosecution

On 20 Mar 43 at approximately 1000 hrs I was in the Church of England Canteen and noticed Pte Twiss at the counter arguing with the proprietor Mr Rogers. Mr Rogers came out from behind the counter and ~~xxx~~ Sgt Starcher came between them. Sgt Starcher asked the accused to leave the canteen and he refused to do so. The Sgt then asked for the accused's pay book and he refused to show it. Sgt Starcher then ordered the accused to accompany him to the company orderly room. The accused and Sgt Starcher then left the canteen together.

CROSS-EXAMINED

- Q. How close were you standing? A. Six feet away.
- Q. Did you hear all that went on?
- A. No, there was quite a lot of confusion.
- Q. Do you remember accused's reply when he was asked to identify himself? A. I think Pte Twiss said he did not have to show his paybook to a sergeant.
- Q. What did the sergeant say?
else/
A. He asked Pte Twiss to come to his orderly room.
- Q. The accused offered no objection? A. No sir.
- Q. Is it not true that the accused first suggested going to the orderly room? A. No, I do not know. I heard Sgt Starcher tell the accused to come to the orderly room.
- Q. Was that the first mention you heard regarding the orderly room. A. Yes sir.
- Q. Did accused leave the canteen under arrest? A. No sir.
- Q. He left of his own accord? A. Yes after the sergeant had asked him to.
- Q. Are you quite sure there was no arrest at that time?
A. I did not hear an arrest being made.

NO RE-EXAMINATION. RULE 83(B) COMPLIED WITH.
The Court adjourns. At 1330 hrs the Court re-opens.

3rd Witness
Prosecution.

H-37958 Pte. Burton W.H., No 3 Coy 1 CASCRU having been duly sworn states:

B. J. Lillis maps

~~About 1000 hrs 20 Mar 43 I was in the Church of England canteen. I saw Sgt Starcher and Pte Twiss at the pay book counter. He refused to produce the book. The sergeant then ordered the accused to accompany him to the orderly room.~~

CROSS-EXAMINED

~~Q. Where were you when this took place?~~

I was upstairs in my quarters on Napier Square, about 1000 hrs 20 Mar 43. I was looking out the window. I saw two soldiers, a private and a sergeant standing below and to my left. The Sergeant had his hand on the private's arm holding him away. I then saw the Sergeant backing away from the private towards the air raid shelter as if defending himself. I saw the sergeant down on his side and the private standing over him. I can not say whether the sergeant was knocked down or if he tripped. The sergeant then called for a corporal who was told to arrest the private.

Questioned by the Court: I recognize the accused as being the private and know Sgt Starcher to be the Sergeant.

CROSS-EXAMINED

Q. Where were you when this took place?

- A. In my quarters, above and to the right of the two men.
- Q. Did you see anyone standing around? A. No. If they were close in to the wall I could not see them from my room.
- Q. Did you see the private and the sergeant?
- A. Yes I saw them as they came around the corner.
- Q. How were they walking? A. They were close together.
- Q. Was the sergeant holding the accused?
- A. I don't know. They were having an argument. When they broke away the sergeant seemed to be holding the accused off.
- Q. Did you hear anything of the argument?
- A. I heard the sergeant call for the corporal.
- Q. Was that after the sergeant fell. A. Yes.
- Q. Did the sergeant before that stop and start talking to a group of men? A. I did not see or hear him do so.
- Q. Was your window open. A. No sir.
- Q. Did you see the accused strike the sergeant? A. No.
- Q. Did you see the sergeant strike the accused? A. No.
- Q. Was there a fight? A. The accused had his hands up, he may have been defending himself or he may have been going to strike. The sergeant was holding him.
- Q. Did the sergeant call for an escort after he was down?
- A. He called for the corporal.

NO RE-EXAMINATION.

RULE 83(B) COMPLIED WITH.

4th Witness
Prosecution

M-50757 PTE BROWN W.D. R.Y.L.
~~M-50757 PTE BROWN W.D. R.Y.L.~~
duly sworn, states:

About 1000 hrs 20 Mar I was in the Church of England Canteen. I saw Sgt Starcher asking Pte Twiss for his pay book which he refused to produce also his name and number which he refused to give. Pte Twiss and Sgt Starcher left the canteen together.

CROSS-EXAMINED

- Q. Do you remember any words used by Pte Twiss and Sgt Starcher.
- A. I remember Pte Twiss saying something about coming to an orderly room.
- Q. How close were you to the Sergeant and the accused?
- A. About 10 feet.
- Q. Had you heard Sgt Starcher say anything about going to an orderly room before this? A. No sir.
- Q. Had you heard Sgt Starcher place Pte Twiss under arrest?
- A. No.
- Q. Did Pte Twiss leave the canteen willingly? A. Yes sir.

QUESTIONED BY THE COURT

- Q. Did you see ~~the~~ accused and Mr Rogers ~~talk~~ talk by Pte Twiss in the ~~canteen~~ canteen?
- A. No sir.

R.P. 83(B) Complied with.

L-100211 Pte Thomas J.I., No 3 Coy 1 CASCRU, having been duly sworn, states:

On the morning of 20 Mar 43 about 1000 hrs I was standing in front of Hut F 6 on Napier Square. I heard what seemed to be an argument behind me. I turned around and saw a private take hold of a sergeants neck. The sergeant broke loose and grasped the privates arms and started pushing away. The Sgt called for a corporal who was ordered to place the private under arrest. The private was the

- A. In my quarters, above and to the right of the two men.
 Q. Did you see anyone standing around? A. No. If they were close in to the wall I could not see them from my room.
 Q. Did you see the private and the sergeant?
 A. Yes I saw them as they came around the corner.
 Q. How were they walking? A. They were close together.
 Q. Was the sergeant holding the accused?
 A. I don't know. They were having an argument. When they broke away the sergeant seemed to be holding the accused off.
 Q. Did you hear anything of the argument?
 A. I heard the sergeant call for the corporal.
 Q. Was that after the sergeant fell. A. Yes.
 Q. Did the sergeant before that stop and start talking to a group of men? A. I did not see or hear him do so.
 Q. Was your window open. A. No sir.
 Q. Did you see the accused strike the sergeant? A. No.
 Q. Did you see the sergeant strike the accused? A. No.
 Q. Was there a fight? A. The accused had his hands up, he may have been defending himself or he may have been going to strike. The sergeant was holding him.
 Q. Did the sergeant call for an escort after he was down?
 A. He called for the corporal.

NO RE-EXAMINATION. RULE 83(B) COMPLIED WITH.

M-50757 PTE BROWN W.D. R & L.

4th Witness
 Prosecution

~~XXXXXXXXXXXXXXXXXXXX~~, No 3 Coy 1 CASCRU, having been duly sworn, states:

About 1000 hrs 20 Mar I was in the Church of England Canteen. I saw Sgt Starcher asking Pte Twiss for his pay book which he refused to produce also his name and number which he refused to give. Pte Twiss and Sgt Starcher left the canteen together.

CROSS-EXAMINED

- Q. Do you remember any words used by Pte Twiss and Sgt Starcher.
 A. I remember Pte Twiss saying something about coming to an orderly room.
 Q. How close were you to the Sergeant and the accused?
 A. About 10 feet.
 Q. Had you heard Sgt Starcher say anything about going to an orderly room before this? A. No sir.
 Q. Had you heard Sgt Starcher place Pte Twiss under arrest?
 A. No.
 Q. Did Pte Twiss leave the canteen willingly? A. Yes sir.

QUESTIONED BY THE COURT

- Q. Did you see a quarrel between the accused and Mr Rogers in the canteen. A. No sir.
 A. Did you hear any insubordinate talk by Pte Twiss in the canteen? A. No sir.

NO RE-EXAMINATION. R.P. 83(B) Complied With.

5th Witness
 Prosecution

L-100211 Pte Thomas J.I., No 3 Coy 1 CASCRU, having been duly sworn, states:

On the morning of 20 Mar 43 about 1000 hrs I was standing in front of Hut P 6 on Napier Square. I heard what seemed to be an argument behind me. I turned around and saw a private take hold of a sergeants neck. The sergeant broke loose and grasped the privates arms and started pushing him away. The Sgt called for a corporal who was ordered to place the private under arrest. The private was the accused.

The sergeant was Sgt Starcher. ~~Then~~ After that the accused was led away towards No 6 Coy lines under escort of Cpl Ray and Pte Richardson.

CROSS-EXAMINED

- Q. You were standing on the ground outside the building?
A. Yes sir.
Q. Who was with you? A. Pte Richardson was with me.
Q. Were there any other men around? A. I didn't see any.
Q. Had you heard Sgt Starcher tell anyone to fall in as escort? A. No sir.
Q. What did you hear? A. Nothing definite, I just heard someone talking.
Q. Did you see the sergeant go down? A. No sir.
Q. Did you see any blows struck? A. No sir.
Q. Did you hear anyone say where they were going when they were marching away?
A. No but they were going in the direction of No 6 Coy lines.

NO RE-EXAMINATION. RULE 83(B) COMPLIED WITH.

6th Witness
Prosecution

K-100108 L/Cpl Brummit T.A. of No 3 Coy 1 CASCRU, having been duly sworn, states:

I was looking out of the window of Hut P.6, Napier Square, when I saw a private and a sergeant come around the corner of the hut and stop. The sergeant spoke to two men who were standing outside the hut. It seemed to make the accused angry and he struck the sergeant. The sergeant made no attempt to strike back, he grasped the accused arms to keep him from striking again. Then the sergeant ordered Cpl Rae to place the accused under arrest. I recognise Sgt Starcher as the sergeant. They went away with Pte Richardson.

CROSS-EXAMINED

- Q. When you first saw the accused and Sgt Starcher what were they doing? A. They had come around the corner and stopped.
Q. Did either one have hands on the other? A. No sir.
Q. Who were the two men to whom the sergeant pointed?
A. I do not know, there were a number of men standing there.
Q. Did you go outside afterward? A. Yes.
Q. You were right there when the accused was marched away?
A. Yes.
Q. Where was he being marched to? A. I understood it was to No 6 Coy orderly room.
Q. Why did you think that? A. Because that was the company to which the accused belonged.
Q. How long was the sergeant talking to the two men?
A. Not very long.

NO RE-EXAMINATION. R.P. 83(B) COMPLIED WITH.

7th Witness
Prosecution

H-86130 Pte Richardson A.L., No 3 Coy 1 CASCRU, having been duly sworn, states:

About 1000hrs 20 Mar 43 I was standing in front of hut P 6 in Napier Square. I heard a commotion. I turned around and saw the accused and Sgt Starcher about forty feet away. The Sgt had hold of the accused's arms holding him off. Cpl Rae ordered me to stop the fight, then the sergeant asked us to escort Pte Twiss to the orderly room which we did.

CROSS-EXAMINED.

- Q. Do you remember Sgt Starchers words when you marched the accused off?
 A. He asked the corporal to place the man under arrest. The corporal told him the sergeant should lay the charge.
 Q. Where did the sergeant order the corporal to march him?
 A. I think he said the orderly room, or the guard room.
 Q. What were you doing when you first heard the commotion?
 A. I was standing in front of the Corporals room talking to Pte Thomas.
 Q. Previous to calling for Cpl Rae did you hear the Sergeant tell anyone else to fall in as escort?
 A. No sir.
 Q. Did you see any blows struck? A. No sir.

NO RE-EXAMINATION. R.P. 83(B) Complied with.

8th Witness
Prosecution

K-76359 Cpl Rae C.M., No 3 Coy 1 CASCRU, having been duly sworn, states:

I was in my quarters in Hut 13 on Marine Square between 1000 and 1100 hrs 20 Mar 43. I heard a commotion outside and went out. I saw Sgt Starcher down against the embankment of the air-raid shelter. Pte Richardson and myself stopped the fight. Pte Richardson and I escorted the accused to No 6 Coy Orderly Room where Sgt Starcher took over from me.

CROSS-EXAMINED

- Q. Did the sergeant order you to ~~xx~~ march the accused to No 6 Coy Orderly room?
 A. I don't remember whether the sergeant or the accused told me which orderly room to go to.

NO RE-EXAMINATION. R.P.83(B) COMPLIED WITH.

Defence

R.P.40(A) and (B) complied with. Defending officer states that accused will give evidence upon oath and will call witness as to character.

1st Witness
Defence

The accused takes his stand at the place from which other witnesses have given their evidence. The accused, D-91741 Pte Swiss J., 1 CASCRU, having been duly sworn, states:

I left my hut at 1010 hrs 20 Mar 43 and went to the Church of England canteen for a cup of tea. When I arrived there was a queue. I stepped in to the queue and was cut in on by others, and as my turn to be served came Mr. Rogers the manager was there serving. I asked him "Why don't you keep the queue properly?". He got annoyed and said "Mind your own business, I have a notion not to serve you". I said, "You don't have to". He said "Well, I won't". I told him to give me my money back. He did this. I started to walk away from the counter and he said "You Canadian squirts don't have to tell me how to run my canteen". I said "Be carefull who you are calling squirts". He got very mad, he came around from behind the counter in front of me. He raised his hand and said "I have a notion to bash you on the kisser". I said "You bloody well try it". Then Sgt Starcher stepped in between us, shoved me aside and asked me for my name and number, and my pay book. I told him to come to my orderly room where I would identify myself. We proceeded out. When we got outside he asked me again for my name and number which I refused to give unless he came to the orderly room. This made him very annoyed. Then he

grabbed me by the arm and said "Come on then". He pulled me for a little and I resisted, telling him he was making a damn fool out of himself and me. He did not let go and I continued to try to break his hold on me. When we got between the Napier Barracks and the alleyway I tried to break loose again by jerking my arm. He then struck me in the face. I struck him back. I grabbed him by the arms and we tussled out to the corner of Napier Barracks backing up until we came to the embankment of an air-raid shelter. He tripped against the embankment and fell down. He then called "Someone place this man under close arrest". Cpl Ree came up to me and placed me under close arrest. I was then marched to my orderly room.

EXAMINED BY THE DEFENDING OFFICER

- Q. Why did you not want to identify yourself at the canteen?
 A. Because he didn't identify himself.
 Q. Had you any reason to ask him to come to your orderly room to identify yourself?
 A. Yes, sir. The Security Officer of No 1 Tp Carrying Coy with which I served some months told us to have anyone who asked us to identify ourselves to either identify themselves first and if they didn't do that to take them to our own orderly room or the nearest one available.
 Q. Where did the sergeant first lay hands on you?
 A. Outside the canteen, he laid his hand on my elbow.
 Q. How long did he hang on to you?
 A. Until we reached Napier Square.
 Q. Just where was it he struck you? A. At the corner of Hut P6.
 Q. Could the soldiers standing in front of that hut have seen him strike you? A. I don't know.
 Q. Who struck the first blow? A. Sgt Starcher.

CROSS-EXAMINED

- Q. Did you walk from the canteen to Napier Square with the sergeant's hand on you elbow? A. Yes sir.
 Q. Was there any abusive language? No sir.

NO RE-EXAMINATION. RULE 83(B) Complied with.

The accused withdraws from the place where he has given evidence.

End Witness
 Defence
 (Character)

B -82746 Sgt. Duprau R.A., 1 CASCRU, having been duly sworn, states:

I have known the accused Pte Twiss since March 1940. He was transferred to our unit as a reinforcement during the time we were at Inkerman Barracks. The unit was then known as 1 Res M.T. Coy, was later known as 1 Cdn Tp Carrying Coy and is now known as 82nd Cdn Gen Tpt Coy. Pte Twiss served in my own section, the Workshop section. He soldiered for about eight months directly under me. He has also soldiered under me here in the Reinforcement Unit when I was in charge of Category Hut in Trades Pool Coy. I would say that at no time has he ever given me any trouble. I have always found him a willing worker and he has never at any time refused to comply with a command that I had occasion to give him. Neither have I ever had a complaint from the junior N.C.Os against him.

Examined by the Defending Officer

- Q. Did you ever know of Pte Twiss picking fights?
 A. No. In fact I have always known him as a man who tried to avoid a fight. I could quote two occasions when arguments have run high and I have really considered that Twiss had occasion to take a wallop at someone, and I later asked him if he was yellow. The answer he gave me was that he held an amateur and a professional boxing card and he couldn't aff-

SUMMARY OF EVIDENCE


In the case of D-91741 Pte. Twiss J.T., of 1 Cdn. ABC.,
Rft. Unit, of Blenheim Barracks, Farnborough, Hants.

The Commanding Officer, Lt-col. H.P. Bonnick, 1 Cdn.
A.S.C. Rft. Unit Blenheim Barracks, Farnborough, Hants,
directs that evidence be taken on oath.

1st Witness M-20745 Sgt. Starcher G.P., having been duly sworn in States:

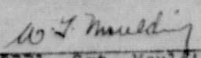
I am M-20745 Sgt Starcher G.P. of the Cdn. Barracks Services,
I was in the Church of England Canteen having a cup of tea.
At approximately 1000 hrs 20 Mar 43 I noticed Pte Twiss at the
counter creating a disturbance and using obscene language.
Pte Twiss began threatening the individual behind the counter,
Mr Rogers, Manager of the canteen. Seeing that Pte Twiss did not
intend to discontinue his belligerent attitude, I stepped between
him and Mr Rogers who had moved from behind the counter, ordering
Pte Twiss to leave the premises. This he did not do and
directed his abusiveness to me. I then asked him for his
regimental name and number which he also refused to give me.
I ordered him to accompany me to his company Orderly Room.
He did leave the building with me. We left the canteen and
proceeded in the general direction of Napier Square which is in
the immediate area and coming across troops standing in the
above mentioned area and considering that the accused attitude
had not in any degree relented, I stopped to order two men to
fall in for escort duty. It was while speaking to these men
in charge of the escort, Cpl Rae and Pte Richardson. From there
the accused was brought to No. 6 Coy., Orderly Room where he
was placed under close arrest.

Accused declined to cross examine the witness:

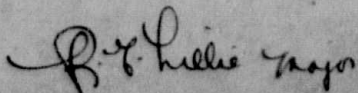

M-20745
Sgt Starcher

2nd Witness M-20771 Sgt. Moulding W.F., having been duly sworn in states:

I am M-20771 Sgt. Moulding W.F., of the Cdn. Barracks Services.
On 20 Mar 43 at approximately 1000 hrs I was in the Church of
England Canteen having a cup of tea and noticed Pte. Twiss at
the counter arguing with the proprietor, Mr Rogers. Then
Mr Rogers came from behind the counter and Sgt Starcher stepped
between them. Sgt Starcher asked the accused to leave the
canteen which he refused to do. The Sgt., then demanded to
see Pte Twiss's pay book which he refused to show. After this
refusal Sgt Starcher ordered the accused to accompany him to No.
6 Coy Orderly Room. Pte Twiss and Sgt. Starcher left the
Canteen together. That is all I know about the above mentioned
incident.


M-20771 Sgt. Moulding W.F.

Accused declines to cross examine the witness:


R. J. Hillie Major
Pres FGCM

3rd Witness M-50757 Pte Brown W.D. having been duly sworn states:

I am M-50757 Pte Brown W.D. of No. 3 Coy 1 Cdn A.S.C.R.U. I was in the Church of England Canteen at approximately 1000 hrs on 20 Mar 43. All I saw was Sgt. Starcher asking Pte Twiss for his paybook which he refused to produce, also name and number which he refused to give. This incident ended by Pte Twiss and Sgt Starcher leaving the canteen together.

W.D. Brown
M-50757 Pte Brown W.D.

Accused declines to cross examine the witness.

4th Witness H-87958 Pte Burton W.H. having been duly sworn states:

I am H-87958 Pte Burton W.H. of No. 3 Coy, 1 Cdn. A.S.C.R.U. I was upstairs in my quarters M.C. 25 A, Napier Square, when the incident took place. While standing at the window of my quarters at approximately 1000 hrs 20 Mar 43. I noticed two soldiers, a Private, and a Sergeant standing below and to my left, a heated argument took place followed by what seemed like a fight. I then saw the Sgt., backing away from the Pte., as if defending himself. The fight ended with the Sgt., down on his side and the Pte., standing over him. I could not say whether the Sgt. had been struck down or had slipped. The Sgt., then called for a Cpl. who on his arrival was ordered by the Sgt., to arrest the Pte.,. The Pte., showed no reluctance in accompanying his escort. I recognize the accused, Pte. Twiss as being the Pte who was fighting with the Sgt. Sgt Starcher.

Burton W.H.
H-87958 Pte. Burton W.H.

Accused declines to cross examine the witness:

5th Witness L-100211 Pte Thomas J.I. having been duly sworn states:

I am L-100211 Pte Thomas J.I., of No. 3 Coy 1 Cdn. A.S.C.R.U. On the morning of 20 Mar 43 at approximately 1000 hrs I was standing in front of Cpl Rae's window, Hut 26, Napier Square, when I was disturbed by what seemed to me like an argument taking place directly behind me. I turned around and saw a Pte take hold of a Sgt's neck. The Sgt broke loose from the Pte's hold, grasped the Pte's arms and started pushing him away. The Sgt then called for a Cpl who on appearing was ordered to place the Pte under close arrest. The incident ended with the Pte whom I now identify as Pte Twiss, the accused, being led away toward No. 6 Coy lines under escort of Cpl Rae and Pte Richardson. I recognize the defendant as being Sgt. Starcher who had been fighting with Pte. Twiss.

Thomas J.I.
L-100211 Pte Thomas J.I.

Accused declines to cross examine the witness.

6th Witness K-100108 L/Cpl Brummitt T.A. having been duly sworn states:

I am K-100108 L/Cpl Brummitt T.A. of No. 3 Coy 1 Cdn. A.S.C.R.U. I was looking out of the window of P.6., Hut, Napier Square at approximately 1000 hrs 20 Mar 43 when the following incident occurred. Two soldiers a Pte and a Sgt came around the corner of the above mentioned hut and stopped. The Sgt gave an order and pointed to two men who were standing outside P.6. Hut. What the order was I do not know because I could not hear it distinctly. The Pte who I recognize as being the accused then struck the Sgt. The Sgt made no attempt to retaliate but merely grabbed hold of the accused arms to prevent himself from being struck again. The Sgt then ordered Cpl Rae to place the accused under arrest. That is all I know. I recognize the defendant as being Sgt. Starcher who had been struck by Pte. Twiss.

T.A. Brummitt
K-100108 L/Cpl Brummitt T.A.

Accused declines to cross examine the witness.

7th Witness K-76359 Cpl Rae C.M. having been duly sworn states:

I am K-76359 Cpl Rae C.M. of NO. 3 Coy 1 Cdn. A.S.C.R.U. I was in my quarters, P.6. Hut, Napier Square between 1000 hrs and 1100 hrs 20 Mar 43 when I heard a commotion outside. I went outside and found the Sgt was down against the embankment of the air-raid shelter and Pte Richardson and myself immediately stopped the fight. The Sgt placed the Pte under arrest. He asked for an escort which I supplied. I recognize the accused as being the above mentioned Pte., Pte Twiss. Pte Richardson and I escorted Pte Twiss to No. 6 Coy., Orderly Room where Sgt Starcher took over from me. I recognize the defendant as being Sgt. Starcher, the man who had been fighting with Pte. Twiss.

C.M. Rae
K-76359 Cpl Rae C.M.

Accused declines to cross examine the witness.

8th Witness H-88130 Pte Richardson A.L. having been duly sworn states:

I am H-88130 Pte Richardson A.L. of No. 3 Coy. 1 Cdn. A.S.C.R.U. At approximately 1000 hrs 20 Mar 43 while standing in front of Hut P.6. Napier Square, I heard a commotion. I turned around and saw two soldiers, a Sgt and a Pte., fighting, about forty feet away. The Sgt., had hold of the Pte's arms trying to ward him off. The Cpl, Cpl Rae, ordered me to stop the fight. The Sgt., then asked us to escort the Pte to NO 6 Coy Orderly Room which we did. I recognize Pte. Twiss and Sgt. Starcher as being the two men who had been fighting.

Richardson A.L.
H-88130 Pte Richardson A.L.

Accused declines to cross examine the witness.

STATEMENT OF H. 55866 Cpl. Grant, J.D., No. 1 Cdn. A.S.C. Rft. Unit., in the case of S. 12941 Pte. Weiss, J., taken in the presence and hearing of the accused:

I am H. 55866 Cpl. Grant, J.D., 1 Cdn. A.S.C. Rft. Unit.

At approximately 2200 hours on 20 Mar 45, I was standing on the corner of Napier Square closest to Messes 1004, where I was talking with a brother who had just recently arrived from Canada.

Whilst standing there I overheard an argument taking place behind the barracks, at approximately 200 feet from my brother and myself. I turned and paid attention to this argument for a while and noticed a Sergeant grab hold of this man by his tunic. I then remarked to my brother that the Sergeant's action was wrong in holding the man.

I then noticed blows being struck and both men holding each other. I cannot say who struck the first blow. There were no other persons other than the Sgt and the accused.

I then left the corner with my brother and proceeded back to my quarters.

That is all I know of this case.

The accused cross-examines this witness:

Q.1. Did you see the Sgt grab hold of me?

A.1. Yes, I did.

Q.2. Did you see the Sgt grab hold of me before the fight?

A.2. Yes, he did, and it was then that I mentioned that the Sgt had no right to do so.

End of cross-examination.

.....*J. D. Grant*.....
H. 55866 Cpl. Grant, J.D.)

Taken in my presence and witnessed by me.

R. J. Dufresne
(R. J. Dufresne) Major,
A/Comd., 2 Trg Bn (A/T),
1 Cdn. A.S.C. Rft. Unit.

11 April 1943

Lt. Col. H. P. Bonnick,
Commanding Officer,
No 1 Cdn A.S.C. Reinforcement Unit.

Dear Sir,

The findings of my courts-martial, promulgated 12 April, were made known to me. I feel that the sentence is far too severe as I still plead not guilty to the charge laid against me.

Since the evidence of M-55566 Cpl. Grant, J.D. #1.CASC RU which I asked my defending officer, Capt Jennings, to produce was not heard in court. And since Cpl. Grant and his brother, were the only one's in a position to see the beginning of the argument, and saw the exchange of blows after the Sgt had struck me, I request that his evidence be heard.

Further, the evidence of Cpl. Grant will substantiate and confirm my statement as to the identical spot where the argument began, and also show that the witnesses produced by the prosecuting officers could not have seen the start of the argument, but only the end.

Therefore, in the light of this evidence which was not brought forward at the courts-martial, I REQUEST A NEW TRIAL.

WITNESSED:

Wm. Sutherland
(Wm. Sutherland) R/Capt,
Chaplain (F).
No 1 Cdn ASC Reinf, Unit.

John J. Twiss
D-91741, TWISS. J. T.

STATEMENT OF M.55866 Cpl. Grant, J.D., No.1 Cdn. A.S.C. Rft. Unit., in the case of D.91241 Pte. Twiss, J., taken in the presence and hearing of the accused:

I am M.55866 Cpl. Grant, J.D., 1 Cdn. A.S.C. Rft. Unit.

At approximately 1100 hours on 20 Mar 43, I was standing on the corner of Napier Square closest to Queens Road, where I was talking with a brother who had just recently arrived from Canada.

Whilst standing there I overheard an argument taking place behind the barracks, at approximately 200 feet from my brother and myself. I turned and paid attention to this argument for a while and noticed a Serjeant grab hold of this man by his tunic. I then remarked to my brother that the Serjeant's action was wrong in holding the man.

I then noticed blows being struck and both men holding each other. I cannot say who struck the first blow. There were no other persons other than the Sjt and the accused.

I then left the corner with my brother and proceeded back to my quarters.

That is all I know of this case.

The accused cross-examines this witness:

Q.1. Did you see the Sjt grab hold of me ?

A.1. Yes, I did.

Q.2. Did you see the Sjt grab hold of me before the fight?

A.2. Yes, he did, and it was then that I mentioned that the Sjt had no right to do so.

End of cross-examination.

.....*J.D. Grant*.....
M.55866 Cpl. Grant, J.D.)

Taken in my presence and witnessed by me.

R. J. Dufresne
(R. J. Dufresne) Major,
A/Comd., 2 Trg Wing (A/T),
1 Cdn. A.S.C. Rft. Unit.

STATEMENT OF M. 55866 Cpl. Grant, J.D., No. 1 Cdn. A.S.C. Rft. Unit., in the case of B. 91241 Pte. Twiss, J., taken in the presence and hearing of the accused:

I am M. 55866 Cpl. Grant, J.D., 1 Cdn. A.S.C. Rft. Unit.

At approximately 1100 hours on 20 Mar 43, I was standing on the corner of Napier Square closest to Queens Road, where I was talking with a brother who had just recently arrived from Canada.

Whilst standing there I overheard an argument taking place behind the barracks, at approximately 200 feet from my brother and myself. I turned and paid attention to this argument for a while and noticed a Serjeant grab hold of this man by his tunic. I then remarked to my brother that the Serjeant's action was wrong in holding the man.

I then noticed blows being struck and both men holding each other. I cannot say who struck the first blow. There were no other persons other than the Sjt and the accused.

I then left the corner with my brother and proceeded back to my quarters.

That is all I know of this case.

The accused cross-examines this witness:

Q.1. Did you see the Sjt grab hold of me ?

A.1. Yes, I did.

Q.2. Did you see the Sjt grab hold of me before the fight?

A.2. Yes, he did, and it was then that I mentioned that the Sjt had no right to do so.

End of cross-examination.

M. 55866 Cpl. Grant, J.D.
M. 55866 Cpl. Grant, J.D.)

Taken in my presence and witnessed by me.

R. J. Dufresne
(R. J. Dufresne) Major,
A/Comd., 2 Trg Wing (A/T),
1 Cdn. A.S.C. Rft. Unit.

Further statement of M-55866 Cpl.
Grant, J.D., RCASC, 1 Cdn ASC Rft Unit,
in the case of D-91741 Pte. Twiss, J. RCASC,
1 Cdn ASC Rft Unit.

Cpl. Grant having been duly sworn,
states:

I am M-55866 Cpl. Grant, J.D, RCASC,
1 Cdn ASC Rft Unit.

The Sergeant and Pte. Twiss were in
position "I" Exhibit "A" to my statement, when
I first noticed them. The Sergeant and Pte.
Twiss were standing at arms distance facing each
other. The Sergeant grabbed Pte. Twiss by
the tunic at the elbow and held him for a few
seconds. There was a twisting of arms, blows
and more twisting then they broke clean. When
I went away they were still standing in position
"I". My brother M 103643 Pte. Grant, D.J. also
saw this scuffle. He is now in the field.

J.D. Grant
.....
M-55866 Cpl. Grant, J.D.

Taken in my presence and witnessed by me.

J.C. Doak
.....
(J.C. Doak) Lieut.
Legal Officer, 2 Trag. Wing.
1 Cdn ASC Rft Unit.

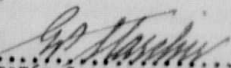
Farnborough, Hants.
12 May 43

Further statement of M-20765 Sgt. Starcher,
G.P. RCASC, Cdn. Barrack Services, in the case of
D-91741 Pte. Twiss, J. RCASC, 1 Cdn ASC Rft Unit.

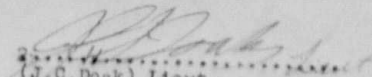
Sgt. Starcher having been duly sworn states:

I am M-20765 Sgt. Starcher, G.P. RCASC,
Cdn. Barrack Services.

When I accompanied Pte. Twiss, J. from the
Canteen to Napier Square, we walked side by side.
We never stopped until we rounded the corner of
Hut #P-6. At that time I think I was walking a
little ahead of Pte. Twiss. I called upon some
soldiers standing in front of hut P-6 to act as escort.
Pte. Twiss then struck me. I was forced back against
the air raid shelter. I never took hold of Pte.
Twiss or struck him at any time, as I was not taking
any chances. I never stopped to argue with him.
The first stop I made was when I saw the group of
soldiers in front of P-6 and considering Pte.
Twiss' continued insubordinate attitude, decided
to call upon them for escort duty.


.....
(M-20765 Sgt. Starcher, G.P.)
Cdn. Barrack Services.

Taken in my presence and witnessed by me.


.....
(J.C. Doak) Lieut.
Legal Officer, 2 Trng. Wing.
1 Cdn ASC Rft Unit.

Farnborough, Hants.
12 May 43

The above statements were not taken in the presence of the accused, D-91741 Pte. Twiss, J. who was not available.

J.C. Doak
.....
(J.C. Doak) Lieut.
Legal Officer, 2 Trng. Wing.
1 Cdn ASC Rft Unit.

Re - Additional Evidence in the case of
D-91741 Pte. Twiss, J. 1 Cdn ASC Rft Unit.

1. Available witnesses for prosecution who saw the struggle and appeared at the Court Martial of above mentioned were re-examined. Their statements now vary ~~a~~ little from their original statements.
2. Pte. Grant, D.J. was not available as being in the field.
3. The following witnesses were not available:
M-56757 - Pte. Brown, W.D. - 1st Army Tank Bde Coy.
L-100211 - Pte. Thomas, J.I. - 3 C.I.B. Coy.
K-100108 - L/Cpl Brummitt, T.A. - On leave
H-88130 - Pte Richardson, A.L. - 41 Gen Tpt. Coy.
4. Prosecution's witnesses as shown by evidence before Court Martial insist Sergeant Stracher did hold Pte. Twiss off by grabbing the latter's arm. The Sergeant still maintains that at no time during the scuffle or on the way from the canteen did he touch Pte. Twiss.

J.C. Doak
.....
(J.C. Doak) Lieut.
Legal Officer, 2 Trng. Wing.
1 Cdn ASC Rft Unit.

Farnborough, Hants.
12 May 43

No. D-91741 Name **Triss John**

Date of last entry in Company Conduct Sheet

Sq. (Batty.) or Company

Corps **RCASC**

G.C. Badges

Long Service and G.C. Pay

Date of enlistment

13 Jan 40

Signature O.C. Company, etc

Sheet No. 1

B
R. Y. Lillie
Major

Remarks *Plus*

FACM

Army Form B.122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-6-41			Insolent to an officer. Failed to carry out proper maintenance on his lorry. Losing accessories from his lorry. Failed to have his aircraft when ordered to do so.	Sgt. West	28 days pay 28 days F.P.	6-6-41	Maj. Dean	
Field	7-8-42	Pte		CIVIL OFFENCE - sentenced to one months imprisonment for assaulting Police Constable and fined £1 or in default 7 days imprisonment for drunk and disorderly. Sentences to run concurrently.	Aldershot Police Court		10-8-42	Civil authorities	

[P.T.O.]

Wt. 29249/792. 2m.m. 11/40, S.P. Co., 51-7951

Place	Date of offence	Rank	Case or Drink number	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9-3-43	Pte		Sec. 15(1) AWL from 2200 hrs. 9 Mar 43 to 2330 hrs 9 Mar 43 TTA 1 hr 30 mins. A.A. 15 0600 hrs, 30-11-40 to 1630 hrs 30-11-40	Documentary Col. Palmer	6 days C.B.	10-3-43	A.W. Dyas Capt.	
Field	30-11-40	Pte.			Sgt. Richards	5 days pay 5 days F.P.	13-12-40	Capt Allan	1 days pay

Certified True Copy.

W. J. [Signature]
 Officer in Charge
 1-Cdn ASC Reinf Unit,
 Cdn Army Overseas.

SHEET DESTROYED 10-6-42 LAST ENTRY 21-3-40

Date of (mistake) 13-1-40

Sheet No. 2

No. D-91741 Name Twiss John

Sq. Batty.)
or Company)

Corps RCASC

Date of last entry in Company Conduct Sheet

No. and date of last drunk

G.C.)
Badges

Long Service)
and G.C. Pay

Signature O.C.)
Company, etc)

Army Form B 122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Godstone	29-7-40	Pte.		A.A.15 Absent from parade at 2100 hrs another man having to take his place.	Cpl. Magregor	5 days Det. 5 days Pay.	30-7-41	Maj. Hallam	1 days Pay
Godstone	15-8-40	Pte.		A.A.15 Failed to appear for Guard Duty.	Cpl. McGregor.	5 days F.P. 6 days Pay.	17-8-40	Maj. Hallam	
Tanbridge	21-9-40	Pte.		A.A.40 Conduct etc. Wilfully fired his rifle without auth. A.A.40 He stripped his rifle without proper authority.	Cpl. Robinson.	7 days C.B. 3 days pay.	23-9-40	Capt. Patington.	
Field	6-10-40	Pte.		A.A.15 Failed to appear on Church Parade 0830 hrs 6-10-40	L/Cpl. Cannon.	5 days F.P. 3 days Pay.	8-10-40	Maj. Hallam.	
Field	30-11-40	Pte.		A.A.15 0600 hrs 30-11-40 to 1630 hrs 30-11-40	Sgt. Richards	5 days F.P.	3-12-40	Capt. Allen	1 days Pay

(P.T.O.)

Place	Date of offence	Rank	Case of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	10-12-40			A.A. 40 Conduct to the etc.	Capt. Partington	3 days Pay	11-12-40	Capt. Allen	
Field	13-1-41	Pte.		A.A. 40 Smoking on duty and continued to smoke when approached by an officer.	Capt. Partington	14 days F.P.	14-1-41	Maj. Dean	
Field	29-1-41			A.A. 15 2230 hrs 29-1-41 till 0115 hrs 30-1-41.	Cpl. Richards	14 days CB	30-1-41	Capt. Partington.	
Field	9-1-41	Pte.		Convicted by the court of Summary Jurisdiction sitting at Reigate of driving without a licence. Fine 10/ a party of insurance against 3rd party risks.			30-1-41	Court of Summary Jurisdiction Reigate.	
									<u>CERTIFIED TRUE COPY</u>
Field	16-2-41			A.A. 15 1200 hrs 16-2-41 till hrs 16-2-41.	2955 Cpl. Christian	14 days C.B.	17-2-41	Capt. Partington	
Field	20-4-41			A.A. 15 2230 hrs to 2250 hrs 20-4-41	Cpl. Cannon	7 days F.P. 7 days Pay. 72 hrs. FP	22-4-41 26-4-41	Maj. Dean. Maj. Dean.	
Field	26-4-41	Pte.		A.A. 40 Did refuse to proceed on duty when ordered to do so	on ordered by L/Cpl. Hanwood			3 days pay	

M. Hanwood
10

"A"

M.F.B. 255
23L-541 (572-3)
H.Q. 1772-39-620
A.F.D. 296

R. of Lillie Major
P. GEN.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D. 92741	Pte	Twiss, John	1 Can A.S.C., R. U.

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

	Within last 12 months	Since enlistment or appointment
For	A.A. 15 (1) 1 times	9 times
For	A. A. Sec. 40	5 times
For		times
For		times

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

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

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

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

5. The present age of the accused according to his ~~XXXXXX~~ attestation paper is 23 years 1 mon.

6. The date of his ~~XXXXXX~~ attestation is ~~XXXXXX~~ 13 Jan 1940

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

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

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

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

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated and in his regiment (or corps), the rank of dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D. 91241 Rank Pte Air Force
 Name **Twiss, John** of **1 Cdn A.S.C. R.U.** Unit
 Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Police Court	Aldershot 7 Aug 42.	Assaulting P.C. drunk and disorderly	one month imprisonment or in default 7 days for being drunk. sentences concurrent.	
Crt of Summary Jurisdiction	Heigate 9 Jan 41	driving without a liscence	Fine 10s	

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

Signed this day of **March 1943** **1 Cdn ASC, RU.**

[Signature]
 Officer i/c Records,

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

Evidence and Charge Sheets to be printed here.

I certify that the above Court assembled on the day of April 1943 and duly tried the persons of each such person were as stated in the third and fourth columns of that Schedule.

B.

Certificate of President as to proceedings.

I also certify that :-

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

* Omit if not applicable.

were duly sworn.

I certify that I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry regarding the matters forming the subject of the charges before this Court martial. B. G. Hellie Major

Signed this 7 day of April 19 43

B. G. Hellie Major
President of the Court Martial

~~I certify that the terms of the Court Martial were complied with~~

C.
Certificate in case of death sentences.

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

Signed this _____ day of _____ 19 _____

President of the Court Martial.

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

D.

Confirmation

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

~~and to promulgate further orders.~~

Signed this 10 day of Apr 19 43.

R. J. Turner
Confirming Officer

Promulgated and extracts taken in the case of D 91741

P. J. Deane
Maj.

(Dated) 12 Apr 43

Promulgated and extracts taken in the case of

L. Chastin
Lieut for Officer to be made

(Dated) DD 89, 12 Apr 43

Promulgated and extracts taken in the case of

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

5 R-120

Pt. Tyler, R.

SCHEDULE.

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

Accused: H13211 Pte Robert TYLER, 14 Cdn Aux Services Sec att 1 Cdn Transit Camp Wing 21 Army Group

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

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

At present under sentence for beginning on (date) (1)
 (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)
 Time in confinement awaiting present trial—a total of days, of which days were spent in hospital. (1)
 (1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)
 Sentence Awarded by the Court:

(Sgd) 13 Aug 45 (Sgd) George O. La Ingr President. (RP 45, 50.)
 Judge-Advocate, if any. Date awarded. (See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

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

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

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

(Sgd)
 Date Commanding Confirming Officer.

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CAMP BRUSSELS AB 150
 FIELD GENERAL COURT-MARTIAL

58-120
 4/38B

Collected by
 22 AUG 1945
 1st BRANCH
 C. M. B.

Order of Lt-Col H J THOMPSON

A/Comd Brussels Garrison dated 9 Aug 45

ACCUSED.

Number. (a) Prmt R. (b) Apptmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.
 H 13211 Pte Robert TYLER, 14 Cdn Aux Services Sec att 1 Cdn Transit Camp Wing 21 Army Gp

PROCEEDINGS REVIEWED *W. H. L.*
R. L. L. M. O. A. P. T.
 REVIEWING OFFICER, *22 Aug 45*

PROCEEDINGS OF TRIAL.

Hold in the Fd in (country) FRANCE on (date) 13 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 36/104

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 10.30 hours trial commences.

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

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

A5. President to accused: Do you object to as interpreter? Ans
 The interpreter is sworn. (1) Do you object to as shorthand writer? Ans
 (The shorthand writer is sworn. (2))

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

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

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

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

President Major G. B. H. Cox CMC, 1 Cdn C.A. Centre
 Member Capt P. J. Poulsen RCA, 1 Cdn C.A. Centre
 Member Capt P. E. Douler Yealust 1 Cdn C.A. Centre
 Judge-Advocate
 Prosecutor Capt B. B. Marconia CIC, 1 Cdn C.A. Centre
 Defending Offr Capt J. A. H. Cave RARC, att 112 Transit Camp

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
 (2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused H 13211 Pte Robert TYLER before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fnn to Rf cited. Insert in Rf rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ch. Sec H. G. Bussell, Gen. Vol 1782

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. The accused may not plead or be found guilty on more than one of two or more charges laid on the allegation. (RP 37(A)). As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authority from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser offence. (RP 44(H)). Accused may change a plea of Not Guilty to Guilty during trial. (RP 38). As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 30(13).
2. The proceedings on each charge sheet (RP 02) after arraignment will be conducted as follows in the respective circumstances stated:

1. If pleas to all charges are GUILTY, use Record Form B below.
11. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
111. If pleas to some charges are GUILTY and to other charges are NOT GUILTY, and, the Charge Sheet, use Record Form C below. (RP 37(A)).
 - (a) Such mixed pleas occur when there are no alternative charges. In the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all charges, or (ii) to record the pleas as the finding to result of its decision. See MML p 744 Instra (2). Proceed under foregoing instrs as may be RP 30, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privilege of Court, etc, see RP 75-79, 86, 110; use of Summary of Evidence at Trial see RP 83-85; calling or re-calling of witnesses see RP 17(E) fn 6; and responsibility of JA see RP 103.
 - (b) Such mixed pleas occur in a set of two or more charges as if he had pleaded Not Guilty to one charge and Guilty to the other. See RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all charges, or (ii) to record the pleas as the finding to result of its decision. See MML p 744 Instra (2). Proceed under foregoing instrs as may be RP 30, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privilege of Court, etc, see RP 75-79, 86, 110; use of Summary of Evidence at Trial see RP 83-85; calling or re-calling of witnesses see RP 17(E) fn 6; and responsibility of JA see RP 103.
3. As to responsibility of President to accuse, questioning of accused see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 75-79, 86, 110; use of Summary of Evidence at Trial see RP 83-85; calling or re-calling of witnesses see RP 17(E) fn 6; and responsibility of JA see RP 103.

PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

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

1. If any, complies with RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all charges, or (ii) to record the pleas as the finding to result of its decision. See MML p 744 Instra (2). Proceed under foregoing instrs as may be RP 30, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privilege of Court, etc, see RP 75-79, 86, 110; use of Summary of Evidence at Trial see RP 83-85; calling or re-calling of witnesses see RP 17(E) fn 6; and responsibility of JA see RP 103.

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

3. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule. (1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea para D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

5. The Summary of Evidence is marked Ex. (1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea para D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

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

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

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

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

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

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

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

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

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

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

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

1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No. (1. If "yes", see RP 37(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

2. The Prosecutor makes (an) opening address. (1. RP 29(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

3. The evidence for the Prosecution is taken. (1. RP 39(C), 114, KR Can 335. Record evidence per Notes, subject to RP 93(C).)

4. The Prosecution is closed. (1. The Prosecution gives evidence himself. (2. The Court is closed, and considers the submission. (3. The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s). (4. The trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s). (5. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 61 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

5. President to accused: You will now proceed with your defence. (1. You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. (2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination. (3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. (4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement of do neither. (5. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

6. President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. No. (1. RP 115. 2. RP 40(A), see 00(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

7. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 85(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RECORDED AT CMHO IN AB 150
FIELD GENERAL COURT-MARTIAL

5-120
 CPARS (10 DIV OF ARMY)
 40 P & S 1600
 4/38B

RECEIVED
 21 AUG 1945
 1st BRANCH
 2nd Bn

Order of Lt-Col H J THOMPSON A/Comd Brussels Garrison dated 9 Aug 45

ACCUSED.

Number. (a) Prmt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.
 H 13211 Pte Robert TYLER 1st Cdn Aux Services
 Sec att 1 Cdn Transit
 Camp Wing 21 Army Gp

PROCEEDINGS REVIEWED *W.H.M.*
 REVIEWING OFFICER *R. L. ... Capt*
PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 13 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 36/104

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for units and instrs on how to record addresses, evidence, etc, which instrs are hereafter cited "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 10.30 hours trial commences.

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

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

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

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

The shorthand writer is sworn.⁽¹⁾
 (1. RP 72. Delete, if none employed.)

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

Ans *Yes* (2)
 (1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	<i>Major</i>	<i>G. B. Cox</i>	<i>CAC</i>	<i>1 Cdn CH Centre</i>
Member	<i>Capt</i>	<i>P. J. Poulin</i>	<i>RCA</i>	<i>1 Cdn CH Centre</i>
Member	<i>Capt</i>	<i>P. E. Douler</i>	<i>Jealiet</i>	<i>1 Cdn CH Centre</i>
Judge-Advocate				
Prosecutor	<i>Capt</i>	<i>D. B. Mackenzie</i>	<i>CIC</i>	<i>1 Cdn CH Centre</i>
Defending Offr	<i>Capt</i>	<i>J. A. H. Cave</i>	<i>RAPC</i>	<i>at 112 Transit Camp</i>

Questions by President: Is the Prosecutor a lawyer? Ans *Yes*. Is the Defending Offr a lawyer? Ans *Yes*.⁽²⁾
 (1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
 (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused *H 13211 Pte Robert TYLER* before arraignment make(s) (no) (a) plea.⁽¹⁾

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fms to R&P cited. Insert in AB rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Comd Sec Hq Brussels Garrison Vol 1782

MEDICAL OFFICER'S CERTIFICATE

I certify that No. *H/1324 Pte Tyler R* 14 Cdn Aux Services
Sec, Att No 1 Cdn Transit Camp Wing, has been examined by me and is
..... *fit* to undergo trial by Court-Martial.

13 AUG 45.

William Rankin
.....
Col.
Rankin

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his command or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B). There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 105. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/R or A/Appmt, if any, see AA 162, 183, fns, KR Can 306, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt.
 H 13211 Pte

ACCUSED.

Full Christian Names. Robert TYLER
 Surname. Unit. 14 Cdn Aux Services Section, att 1 Cdn Transit Camp Wing, 21 Army Group

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person ~~named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 2 Aug 45~~ endorsed by me, ~~of the offence of mutiny for treason~~ "To be tried by Field General Court-Martial".
2. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial; ~~and that the person named above should be tried by a Field General Court-Martial~~ (Delete part in brackets when not required for compliance with RP 105(C).)
3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.
4. ~~I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.~~
5. ~~I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

Me for (Rank) G B H COX PRESIDENT. (Must be named. RP 106.) CAC 1 Cdn CM Centre (Unit.)

Captain P J POULIN MEMBERS. (Named or detailed. RP 106.) RGA 1 Cdn CM Centre (Unit.)

Captain (Rank) P E DOWLER WAITING MEMBER. (Named or detailed, if any. RP 106.) Gen List 1 Cdn CM Centre (Unit.)

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

Offr in the Fd (Rank) (Unit.)

(H J Thompson) (Signed personally. RP 105 (n 2)) Lt-Col (Rank)

A/ Commanding. Brussels Garrison Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS
 (See overleaf for oaths and notes for use on trial.)

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CHARGE SHEET

The accused, No. H-13211, Pte Robert TYLER, 1A Cdn Aux Services Section, attached to No. 1 Cdn Transit Camp Wing - 21 Army Group, a soldier of the Canadian Army on Active Service, is charged with:-

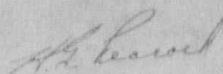
CHARGE
Sec 48
Army Act

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

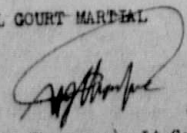
in the Field, in or about Calais, France, on or about 30 June 45, so negligently handled a pistol as to cause it to discharge and thereby fatally wound Cpl W. BODNER.

In the Field
14 July 45


(H.G. Peacock) Major
OC No 1 Canadian Transit Camp Wing
21 Army Group

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

BELGIUM
9 Aug 45


(H J Thompson) Lt-Col
A/Comd Brussels Garrison

H. 13211 Pte Dyle R.

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about Sworn:

Prosecutor Opening address:

I beg to advise the court that the Pros.
will call two witnesses only. The others
who were formally available are now across
the water.

FIRST
WITNESS
FOR PROS

B21470 CPL SIMKINS F.W. Q.A.C.H. of C.
Sworn.

I remember the evening of Saturday 30 June 1940
I remember it because one of the most
unfortunate incidents happened that I shall
never forget. It took place at Hut # 10, 112
Narsart Camp, near Galais. I was sitting
on the accused's bed writing in this B.P.
The accused was sitting on the foot of
the centre bed in the hut. There are only
3 beds in the hut. Cpl W. Bodnar was
sitting on the 2nd bed with the accused.
Pte Chevalier J.N. was sitting on the bed
close to the outside wall. I know the
accused and he is there. (Pointing)
During the course of the evening I had
heard Pte Dyle mention that he wished
to clean his weapon before we all
departed for the cinema which started at 1900 hrs.
I don't know what kind of a weapon it is
while I was writing I heard Pte Dyle
get up, cross the room to his B.P. Box and
return to his bed. Shortly afterwards I was

started by a sound of a shot being fired
It was a revolver shot. I immediately heard
Cpl Bodnor say ~~that~~ "I've been shot"

I jumped up and went to his assistance
at the same time telling one of the boys in the
room to get the M.O. Pte Dyer quickly
went to the M.I.R. to fetch the M.O. and during
the interval Pte Chvater & myself placed
Cpl Bodnor in a comfortable position and
started to remove his clothes to expose
the wound. Within a minute or so Pte
Dyer returned with the Medical Orderly &
two stretchers as the M.O. was not
in the camp at the time. We found a
wound on the left Breast over the heart.
The Medical Orderly immediately applied
a shell dressing ^{which} with my assistance
he placed him on the stretcher and took
him to the ambulance. I saw a revolver
after the accident on the table in the B.R.
which is approx 5 to 7 feet from the bed.
The pistol belongs to Pte Dyer. I could
only identify it by size. As far as I
know it was not a Canadian or British
weapon.

No Questions by Def.

Questions by Court

The accused and Cpl Bodnor were sitting on
the same bed but about 4 feet apart.
I believe the wound was caused by a small bullet.
There was no signs of powder burns. I did not notice

the clothing particularly. I did not see the
revolver before I saw it on the table. Nothing
else other than what I have said about
Pte Dylor cleaning the pistol was said before.
I believe that I saw Pte Dylor once before
with a pistol but I don't know if it was loaded.
I did not see cpl Bodnor again.

R.P. 83 B. completed with ^{11/15}

SECOND
WITNESS FOR
PROS

#A 22491 Pte Chevalier D.N. Essex Scott

Sworn

I remember the evening of Saturday 30th Jan 45
I was in #10 hut of camp #3 which is part of
#112 Dresset Camp. Cpl Simkins Cpl Bodnor
Pte Dylor and myself were in the hut at the
time. I recognize Pte Dylor, then he is
(Painting). As I walked into the hut
I saw cpl Simkins cpl Bodnor and Pte Dylor
sitting on their beds. I went straight to
my B.R. box took out my R of C rations and
walked over to my bed. I laid the rations on
the bed and I sat down on the bed. There
are three beds in the hut. Cpl Bodnor was
a visitor in the hut. Cpl Bodnor was
sitting on the end of the centre bed which belong
to Pte Shoreland is the centre bed. I don't think
the hut at approx 1800 hrs I did not notice
what the accused was doing. I heard a revolver
shot in the room. I had not previously seen a
revolver in the room. ~~I~~ I heard Cpl Bodnor
say "I've been shot." I went to cpl Bodnor and
helped him up to the end of the bed and cpl Simkins

and I laid him in a comfortable position.
I told Pte Dyer to go for the M.O. We undressed his
shirt and the Medical orderly arrived who examined
the wound applying a shell dressing. We placed
Cpl Bodnor on the stretcher and I helped carry the
stretcher to the ambulance. I went with the
ambulance to the F.D.S. The accused accompanied
~~the ambulance~~ me in the ambulance. We rode in
the back with the stretcher. Cpl Bodnor did not
speak again as far as I know. I did not
see him after we took him to the F.D.S.
I saw a newspaper on the table when I came back
from the F.D.S. belonging to Pte Dyer.

(Witness is shown ~~the~~ Pistol and states that it
belongs to Pte Dyer) Pistol is read and
marked Exhibit "A"

No questions by Def

Questions by Court.

I don't remember seeing Pte Dyer with a
pistol before. I recognize the pistol as being
the one that was on the table after the incident
I presumed it to be Pte Dyer's as I know he
had one. I was not looking at Pte Dyer
when the shot went off. I was looking at
my K of C Ballon. ^{I believe} Before the accident I had
not heard any one say anything about a pistol.
Dyer never told me that he had a loaded
pistol in his possession. ~~On the way to the F.D.S. the med. got into~~
On the way to the F.D.S. the med. got into
the ambulance. The M.O. made an examination
but did say anything.

R.P. 83 B complained with lobby

• Who Examined by P.W.

I know that there was a round the mag.
 (The witness is shown Exhibit "A" and
 recognizes it as being his pistol) It is
 the pistol we are talking about. Cpl Bodur
 was sitting at the head of the cot. I went
 Cpl Bodur said "I've been shot." I went
 in the ambulance with him to the hospital.
 I have not seen him since he went to hosp.
 Cpl Bodur was a very good friend of mine
 we chummed around together.

no ~~Rec~~ examination by D.E.F.

Questions by Court

The fired round was the only round in
 the pistol. I know that if I pulled the action
 all the way back it would automatically place
 a round in the chamber. I did not try to
 pull it all the way back. I did not actually
 pull it all the way back. As far as I can
 see the weapon must have been faulty ~~at~~
 otherwise the round would not have gone off
 unless I pulled the trigger. I thought that if
 I removed the magazine the round would
 have come out of ~~the~~ with it. When I
 put it away before the round was not in
 the chamber. I have never fired it before and am
 not very familiar with it. I had taken the
 mag out before with the round in it. I did not
 notice when the weapon was pointing

P.P. 83 B complied with G.P.S.

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1936

Pro Summary

The Pro acknowledges that no evidence of death has been produced and in the event of a conviction a special finding will be necessary.

Def Summary

The essence of this offense is neglect. The only evidence bearing on the actual handling of the weapon has been given by the accused, and the court have had an opportunity of questioning him as to this. His evidence, far from showing neglect shows that the accused had good reason to think that there was no round in the breach and that he took all precautions possible to prove the weapon. It contends that the occurrence was a pure accident for which he can not be blamed. Refer to Arndt 30 to notes of section 40 M.M.h.

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Summary of Evidence in the case of No H.13211,
Pte. TYLER, R. AM. No. 1. Cdn. Trans. Camp Wing.
Taken down by Capt. Stanley Whitehead, Forester, at
No 3 Camp, 112 Transit Camp, B.L.A. 3rd July,
1945.

The Commanding Officer directs that the
evidence shall be taken as follows.

First witness. No. B 21470 Cpl. SIMKINS, F.W., having been

duly sworn states:-

At approximately 1830 hrs on Saturday 30th June, 1945
I was in ~~HUT~~^{FAC.} HUT No 10 in the Canadian lines
with Cpl. BODNAR, Pte. CHEVALIER & Pte TYLER.
I was busily engaged writing a permit to
have my laundry taken out of camp when I
was startled by hearing a shot fired inside
the hut, & at the same time I heard Cpl. BODNAR
say 'I've been shot.' I went to his assistance
and alerted the other occupants of the hut
'One of you fetch the M.O.' Pte Tyler ran
for the Medical Officer while Chevalier & myself
removed the clothing from Cpl. Bodnar exposing
a wound over the heart. Within a minute
Tyler returns with a medical orderly who
dressed the wound. I assisted the medical
orderly to put Cpl. Bodnar on a stretcher, which
was then taken out to the Ambulance.

I said we removed the clothing, by
this I mean the battle blouse and shirt.

Examined by Capt. S. Whitehead -

Q. 1. Did you at any time before or after the arrival of the ambulance see a weapon in the hut.

A. 1. I saw a revolver on the table after Cpl. Bodman had been put onto the ambulance.

Q. 2. Were you aware that the accused was in possession of a revolver.

A. 2. Yes! because a quarter of an hour before the incident I heard him say that he was going to clean it, and I heard him get up from his bed & go to his box, & return to his bed.

The accused declines to cross-examine the witness.

Cpl. Simkins F.W.

Second witness: No A 22491, Pte. CHEVALIER, D.N.

having been duly sworn to:-

At approx. 1800hrs on 30 June 1945 I walked into my room, which is No 10 hut in the Canadian line, & went over to my bed. I picked up my K.C. ration & put it on the bed, sat down & looked my ration over. Suddenly I heard a shot which sounded inside the building & immediately afterwards I heard Cpl. Bodnar say "I've been shot." Cpl. Bodnar raised himself a little from the bed on which he was sitting and I called to Tyler to fetch the M.O while I went to assist Cpl. Bodnar. Cpl. Sinkins came over & we together made Cpl. Bodnar as comfortable as possible. In two or three minutes the medical orderly arrived & dressed the wound. We placed Cpl. Bodnar on a stretcher & carried it to the ambulance.

Examined by Capt. J. Whitehead:-

Q.1. Did you at any time see a weapon in the hut.

A.1. On my return from the F.D.S I saw a revolver on the table.

Q.2. Did you know to whom the weapon belonged.

A.2. Yes! to Pte Tyler.

Q.3. Could you identify the weapon (produced)

A.3. Yes! That is the weapon.

Cross-examined by accused:-

Q.1. Did you hear me say I was going to clean my revolver.

A.1. I heard you talking but did not notice what you said.

● Third witness: No G. 22795. C. S. M. Mann, A.
being duly sworn states:

I had no knowledge of the accident until
the Medical Officer had had the patient
removed to F. D. S. when he informed me
of the occurrence.

Examined by Capt. S. Whitehead, -

Q.1. Are you aware of the orders issued, in
relation to the possession of enemy equipment,
by 112 Transit Camp H.Q.

A.1. Yes!

Q.2. Have all the Canadian permanent staff been
made ^{aware} of these orders, & if so, by what means?

A.2. Yes. Routine Orders are posted on the War
Notice Board, and each day broadcast
are made saying that providing enemy
equipment is handed in before embarking
for U.K. no further action will be taken
against the holder.

The accused declines to cross-examine this witness.

G 22795

Arnold Mann C.M.

Exhibit 101.

- The accused, H. 13211 Rte Tyler, R having been warned in accordance with R.P. 4(c) and duly sworn, states:-

I have nothing more to add to the evidence I gave before the court of inquiry except to swear that this terrible occurrence was an accident, which has resulted in the death of my best friend and which I shall regret as long as I live. I have already stated that the weapon was my weapon and was in my hands when the accident occurred.

Tyler R. Rte.
H13211

I certify that the foregoing Summary of Witness
consisting of five pages was taken down by me
in writing in the presence of the accused and
that Rules of Procedure 4, (C) (D) (E) & (F) have
been complied with.

Stanley Whitehead Capt.
Forester.

B. L. A.

3. JUL. 45.

- Summary of Evidence in the case of No H 13211, Pte Taylor, R. A. N. Canadian Trans. Camp, Wing having been submitted to A.D.J.A. 3 Cdn. Base Rpt. Group is re-opened to take the evidence, on oath, of No 173438, Capt. Houston, G. F., R.A.M.C. The Comdg. Officer directs that the evidence shall be taken on oath.

B.L.A.

14. Jul. 45.

3rd witness No 173438 Capt. Houston, G. F., R.A.M.C. having been duly sworn states:-

At approx. 1835 hrs on 30. June 45 I was notified by phone while at 25 F.A.S. that an accident had occurred at No 3 Camp, and I was requested immediately. Whilst proceeding to No 3 Camp I met my ambulance. Stopped at the bedside. I examined the patient, No 3450496 Cpl. Bodner, W. and found that he was dead.

The accused declines to cross-examine this witness.

R. H. [Signature]
Lt Col

I certify that the foregoing evidence, consisting of
one page was taken down by me in writing in
the presence of the accused and that Rules of
Procedure 4, (C) (D) (E) & (F) have been complied
with.

Stanley Whitehead, Capt.

Trustee.

B. L. B.

14 JUL 45.

● To D. C. C. Cdn. Wing,
112 Transit Camp, No 3,
B. L. A.

Sir,

I have been charged with an offence
under Sec. 40 of the Army Act and have been
remanded for a D. G. C. M.

I therefore have the honour to make
application for the services of an officer to
handle my case and defend me at the
Court Martial. If available I would
like Capt. J. Cave, R. A. ~~Regt.~~ Attached 112 Transit
Camp, to represent me.

I am, Sir,

Your obedient Servant.

I shall be pleased
to do this

*to Capt.
Cave*

B. L. A.

14. June 48.

R. Tyler.
Pls.

No H 13211. Cdn. Sect.

EBC

SUMMARY OF EVIDENCE
in the case of

H-13211 Pte TYLER, R. (att No 1 Cdn Transit Camp Wing - 21 A Gp).
taken down by Capt Stanley WHITEHEAD, Foresters, at No 3 Camp, 112 Transit
Camp, BLA, 3rd July, 1945.

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

FIRST WITNESS

No. S-21470, Cpl SIEKINS, F.W., having been duly sworn, states:

At approximately 1830 hrs on Saturday, 30 June 45, I was in
PWS hut No 10 in the Canadian Lines with Cpl BODNAR, Pte CHEVALIER, Pte
TYLER. I was busily engaged writing a permit to have my laundry taken
out of camp when I was startled by hearing a shot fired inside the hut,
and at the same time I heard Cpl BODNER say: "I've been shot". I went
to his assistance, and shouted to the other occupants of the hut: "One
of you fetch the M.O." Pte TYLER ran for the Medical Officer while
CHEVALIER and myself removed the clothing from Cpl BODNAR, exposing a
wound over the heart. Within a minute TYLER returned with a medical
orderly, who dressed the wound. I assisted the medical orderly to
put Cpl BODNAR on a stretcher, which was then taken out to the ambulance.

I said we removed the clothing by this I mean the battle
blouse and shirt.

Examined by Capt S. WHITEHEAD:

- Q.1 Did you, at any time, before or after the sound of the shot,
see a weapon in the hut?
A.1 I saw a revolver on the table after Cpl BODNAR had been put
into the ambulance.
- Q.2 Were you aware that the accused was in possession of a
revolver?
A.2 Yes, because a quarter of an hour before the incident I
heard him say that he was going to clean it, and I heard him
get up from his bed and go to his box, and return to his bed.

The accused declines to cross-examine this witness.

SECOND WITNESS

No. 4-22491, Pfc CHRISTIAN, D.H., having been duly sworn, deposes:
As approximately 1800 hrs on 30 June 45 I walked into my room, which is No. 10 in the Canadian Lines, and went over to my bed. I picked up my K.O. rations, and put it on the bed, set down and looked my rations over. Suddenly I heard a shot which sounded inside the building, and immediately afterward I heard Gpl BORNHAR say "I've been shot". Gpl BORNHAR raised himself a little from the bed on which he was sitting, and I called to FLIER to fetch the K.O. While I went to assist Gpl BORNHAR, Gpl STRICKS came over, and we together made Gpl BORNHAR as comfortable as possible. In two or three minutes the medical orderly arrived and dressed the wound. We placed Gpl BORNHAR on a stretcher and carried it to the ambulance.

Interrogated by Capt. E. WITTEBAND:

- Q.1 Did you at any time see a weapon in the hotel?
A.1 On my return from the P.O., I saw a revolver on the table.
Q.2 Did you know to whom the weapon belonged?
A.2 Yes. To Pfc FLIER.
Q.3 Could you identify the weapon? (Produced).
A.3 Yes. That is the weapon.

Cross-examined by accused:

- Q.1 Did you hear me say I was going to disarm my revolver?
A.1 I heard you talking, but did not notice what you said.

THIRD WITNESS

No. G-22795, GSN HARR, A., having been duly sworn, deposes:-

I had no knowledge of the accident until the medical officer had had the patient removed to P.O., when he informed me of the occurrence.

Interrogated by Capt. E. WITTEBAND:

- Q.1 Are you aware of the orders issued in relation to the possession of enemy equipment, by 112 Troop, Camp HQ?
A.1 Yes.
Q.2 Have all the German personnel there been made aware of this order, and if so, by what means?
A.2 Besides orders are posted on the King Solomon board, and each day broadcasts are made saying that providing enemy equipment is handed in before embarking for U.K., no further action will be taken against the holder.

The accused declines to cross-examine the witness.

FOURTH WITNESS

The accused, H-1221, P60 T223, R., having been warned in accordance with R.F. A(c), and duly sworn, stated:-

I have nothing more to add to the evidence I gave before the Court of Inquiry, except to swear that this terrible occurrence was an accident, which has resulted in the death of my best friend, and that which I shall regret as long as I live. I have already stated that the weapon was my weapon, and was in my hands when the accident occurred.

I certify that the foregoing summary of evidence consisting of five pages, was taken down by me in writing in the presence of the accused, and that rules of Procedure A(c)(d)(f) have been complied with.

Signed (S. Whitehead) Capt
Foresters

B.L.A.
3 Jul 45

summary of
DECEASED TRUE COPY OF THE EVIDENCE IN THE CASE OF H-1221 PTE THOMAS, R.

S. B. P. O'Neil
(H.O. Pascoe) Major
OC No 1 Gun Transport Coy King
21 Army Group

SUMMARY OF EVIDENCE in the case of No. H-13211, Pte TYLER, R. att
No 1 Gdn Transit Camp Wing - 21 Army Group, having been submitted to A.D.J.A.
3 Gdn Base Rpt Gp is re-opened to take the evidence on oath of No. 173438
Capt HOUSTON, G.F. - RAMS.

The Commanding offr directs that the evidence shall be taken on oath.

B.L.A.
14 Jul 45

FIFTH WITNESS

No. 173438 Capt HOUSTON, G.F. - RAMS, having been duly sworn, states:-

At approximately 1835 on 30 June 45 I was notified by phone while at
25 F.D.S. that an accident had occurred at No 3 Camp, and I was required immediately.
While proceeding to No 3 Camp I met my ambulance, stopped it and got inside.
I examined the patient, No. 3450496 Cpl BOHNER, N., and found that he was dead.

The accused declines to cross-examine the witness.

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

B.L.A.
14 Jul 45.

*Attested by
W. E. Leach
21.7.45*

(Stanley Whitehead) Capt
Forester

LIST OF WITNESSES FOR PROSECUTION

* No.	173438	Capt	G.F. HOUSTON	RAMC
No.	B-21470	Cpl	SIRKINS, F.W.	Q.O.C.H. of C.
No.	A-22491	Pte	CHEVALIER, D.N.	Essex Sect
* No.	G-22795	C.S.M.	MANN, A.	North Shore Regt

LIST OF EXHIBITS

Exhibit "A"	Pistol
Exhibit "B"	Shell case, presumably fired by exhibit "A"

Q44-119

PTE TYNES GA

SCHEDULE.

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

Accused: F 86332 Pte George Allen TYNES - CIO - 4 CIRU

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A. A. Sec 15(1)	Guilty	Guilty	
2nd A. A. Sec 22	Guilty	Guilty	
3rd	W.P. Steen Major		
4th	June 28/44		
5th			
6th			

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

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

Time in confinement awaiting present trial—a total of 20 days, of which 14 days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Four Months and to be put under stoppage of pay until he has made good the sum of \$1-12-10 cost of apprehension.

(Sgd) _____ Date awarded. _____ (Sgd) _____ President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date _____ (Sgd) _____ Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 4, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence of the Court but remit 30 day detention

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

Date 29 Jun 44 _____ (Sgd) _____ Commander
Confirming Officer C.A.

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

Accused. _____ Date. _____ Signature of Offr. _____
F 86332 Pte George Allen Tynes 30 Jun 44 a.f. Guiter Lt Col/Adj
No. 4 CIRU W.P.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. J.R. Stewart Lough, Comd "D" Gp, C.R.U. dated 27 Jun 44
D. S. O., M. O., V. D. ACCUSED.

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

Number. (a) Prmt R. (b) Appnt, A/R or A/Appnt. Full Christian Names. Surname. Unit.
F 86332 Pte George Allen TYNES CIO
4 CIRU

PROCEEDINGS REVIEWED 10 July 44

PROCEEDINGS OF TRIAL.
REVIEWING OFFICER, JAG BRANCH G.M.H.Q.
Held in the Fd in (country) England on (date) 28 June 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 10.15 hours trial commences. (1) A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. (1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO. (1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562(G). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans No
The Interpreter is sworn. (1) Do you object to _____ as shorthand writer? Ans No
The shorthand writer is sworn. (1)

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

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

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 88, MML p 742.)

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

President	Major	W.P. Steen	# 4 CIRU
Member	Capt	E.M. Thom	# 4 CIRU
Member	Lieut	A. Moffat	# 4 CIRU
Judge-Advocate			
Prosecutor	Lieut	J. E. Pope	# 4 CIRU
Defending Offr	Lieut	C.G. Bourne	# 4 CIRU

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

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

(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Pte George Allen Tynes before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding org recorded per Notes. For forms of record see references in fns to RP cited. Insert in 48 rank and name of the accused in the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 89, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

Ans. Yes Are they witnesses as to character only? Ans. No
(1. RP 37(B). 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.⁽¹⁾
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?⁽¹⁾
Ans. Yes
(1. If evidence has already been given by accused or by witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service⁽¹⁾, and certified true copy (copies) of Conduct Sheet(s)⁽²⁾, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C₁ and Ex. C₂ respectively.⁽³⁾
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.⁽¹⁾ The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.⁽²⁾
(1. When several accused tried separately see RP 103. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 230, 563-566, Overseas RO 309, 732, 733, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. F 86332 Private GEORGE ALLEN TYNES, of the Canadian Infantry Corps, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
AR Dec 21

WHILE ON ACTIVE SERVICE, Absenting himself without leave,

in that he
In the Field, absented himself without leave from 0600 hours 7 April 1944, until apprehended by Corps of Military Police, at Camden Town, at 1140 hours 26 May 1944; thereby incurring expenses for himself and escort to the value of £1-13-10.
(Time absent 49 days, 5 hours 40 minutes.)

Second Charge
AR Dec 22

WHILE ON ACTIVE SERVICE, When in lawful Custody attempting to escape

in that he
In the Field, at 1115 hours 26 May 1944 when apprehended by the Corps of Military Police at Camden Town, broke away from his escort and attempted to escape.

IN THE FIELD
24 JUNE 1944

J. Gavan Power
(J. Gavan Power) Lt-Col.,
Commanding Officer
4 Cdn Inf Rft Unit

To be tried by Field General Court Martial.

In the Field
27 June 1944

J. R. Stewart Lough
(J. R. Stewart Lough) Brigadier,
Commanding,
"D" Group Cdn Rft Units.
Convening Officer.

WPS

FIELD GENERAL COURT-MARTIAL

CFR 66 (In lieu of AFM)
40/PAN/1607 (2868)

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

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

ACCUSED.

Number.	(a) Prmt R.	(b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
86332	Pte		George Allen	TYNES	CIC 4 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 JUN 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

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

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

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

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

PRESIDENT.

Major	W.P. Steen	Carl & York R.	4 CIRU
(Rank)	(Must be named. RP 106.)		(Unit)

MEMBERS.

A Captain	to be detailed by Commanding Officer		4 CIRU
(Rank)	(Named or detailed. RP 106.)		(Unit)

WAITING MEMBER.

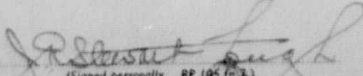
(Rank)	(Named or detailed, if any. RP 106.)		(Unit)
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JUDGE-ADVOCATE.

(Rank)	(Must be named, if any. RP 106.)		(Unit)
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On Active Service in the Fd

in England
(Country)


 (Signed personally. RP 105 (n 2).)
 (J.R. Stewart Lough) Brigadier,
 Commanding "D" Group, C.R.U.
 Convening Officer.

Date: 27 Jun 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

W.S.

Medical Officer's Certificate. 40/25
K.C. (Can.), para 27.

I certify that I have this morning examined no. F.86332.....
P.G. TYNES... G.A...... of..... C.I.C......

and in my opinion, he is fit..... to undergo trial by Court martial.
Station. FIELD.....
Date. 28 June 1944..... (SG...)
(Canadian reinforcement Units Routine Order no. 3, para 27, d/b Jan 42)

[Signature]
.....
(Medical Officer)

Plea in Mitigation
in the Case of F 86007 Pte TYNES, G.A.

This soldier before going absent without leave, asked for a pass which was not granted to him. He considered his case so urgent because he was keeping Company with a girl at the time who had just had a miscarriage and he wished to be with her. In addition to this, his father has deserted his family in Canada and his mother, who is not in good health, is the sole support of 4 other children aged 13, 12, 5 and 2 1/2 respectively. Income approx 30. per month to his mother and ~~in addition~~ augment's this with cash sent home. He has been with the R.C.E. until recently and has desired return service with them but instead has been re-allocated to the infantry. He has not been satisfied with this change particularly as he maintains he has trouble with one foot which was hurt badly by glass when he was a child. The Court is also asked to consider the statement made by the accused which shows that after apprehension, he went away to the house he mentions and after a stay of a number of hours, returned and gave himself up voluntarily to the authorities. His change should be light.

C. B. Jones Lt.

W.P.S.

W.P.S.

Exhibit A
W. Steiner

SUMMARY OF EVIDENCE

Summary of Evidence, in the case of P 86332 Pte Tynes G A, of the Canadian Infantry Corps, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

The Summary of Evidence is not taken on oath.

FIRST WITNESS

For the
Prosecution

Capt R J McLaughlin, of the Toronto Scottish Regiment, on the strength of No. 4 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, states as follows:-

I am Capt R J McLaughlin and am Administration Officer of "H" Wing, 4 C I R U. I present as exhibit "A" a certified true copy of a Record of the Declaration of a Court of Inquiry, which shows that the accused P 86332 Pte Tynes, G A, whom I now recognize, absented himself without leave from 0600 hours, 7 April 1944. I present as Exhibit "B" a certified true copy of Part II Order extract form which shows that the accused P 86332 Pte Tynes, G A, whom I now recognize, was taken on strength, 4 C I R U, from desertion on being apprehended by Corps of Military Police in Camden Town, at 1140 hours 26 May 1944. I produce a certificate purporting to be signed by the Officer who issued the transportation warrants for the return of the accused and his escorts showing the costs of apprehension of the accused, P 86332 Pte Tynes G A, whom I now recognize. (Certified marked as Exhibit "C")

The accused declines to cross-examine this witness.

R J McLaughlin
(R J McLaughlin)

Capt.

SECOND WITNESS

For the
Prosecution

No. 1553234 L-Cpl. Hall, W J, Corps of Military Police, a soldier of the British Army.

Pursuant to C.A.G.R.O. 957 (4) and R.P.4(G), a statement of this witness' evidence, purporting to be signed by him, has been read over to the accused, P 86332 Pte Tynes G A, and is included in this Summary. The evidence is written on the back of AF B 252, marked as Exhibit "D".

I certify that the attendance of this witness cannot be readily procured, owing to the exigencies of the service and to the expense and loss of time involved.

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

T. E. McKey
(T E McKey)

Lieut
Officer detd led to take Summary

W. Steiner

THIRD WITNESS

For the
Prosecution

No. 4855881 Cpl. J. Waters, Corps of Military
Police, a soldier of the British Army.

Pursuant to C.A.O.R.O. 957 (4) and R.P.4(G), a
statement of this witness' evidence purporting to be
signed by him, has been read over to the accused,
P 86332 Pte Tynes G A, and is included in this
Summary. The evidence is written on the back of
AF B 252, marked as Exhibit "D".

I certify that the attendance of this witness cannot
be readily procured, owing to the exigencies of the
service and to the expense and loss of time involved.

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

T. E. McKay
(T E McKay) Lieut
Officer detailed to take Summary

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

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

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

IN THE FIELD
24 JUNE 1944

T. E. McKay
(T E McKay) Lieut
Officer detailed to take Summary

EXHIBIT "A" J. E. Fu.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 29th day of April 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-86332 Pte. Tynes, G.A. (C.I.C.) 4 Cdn Inf Rft Unit.

DECLARATION

The Court declare that No. F-86332 Pte. Tynes, G.A. (C.I.C.) on the strength of 4 Cdn Inf Reinforcement Unit, Cdn Army England, illegally absented himself without leave In the Field at 0600 hrs on the seventh day of April 44 that he is still so absent, and that on the 29 April 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
	VOC PRICE		APP PRICE
Blouse Battle Dress serge	1 3 8		17 7 1/2
Trousers battle Dress "	1 4 1 1/2		18 1
Boots ankle	1 2 10		17 1 1/2
Caps F.S.	2 10		1 10 1/2
Jersey Pullover	8 0		6 0
Badges Cap	4 1/2		4 1/2
TOTAL	£ 4 1 4		£ 3 1 1

Signed at In the Field this 2nd day of May 19 44

Major W.W. Ogilvie (C.B. Highrs) President
 Capt. J.H. Farthing (Carlit & York R.) Member
 Lieut W.D. Knox (Hast & P.W.R.) Member

Signature of Commanding Officer (J.H. Christie) Col., 4 Cdn Inf Rft Unit, C.A.E.

Certified true copy

W. B. Stewart
 Captain Adjutant,
 4 Cdn Inf Rein Unit.

Signature of Officer having custody of original record

W.B.S.

EXHIBIT 'B'

T. E. M.

LAST ORDER
NO 144
2 JUN 44

NO 4 CANADIAN INFANTRY REINFORCEMENT UNIT C A O

DAILY ORDERS

THIS ORDER

PART II

NO 145

Issued by

3 JUN 44

LT-COL J.G. POWER, ED A/Comd

8. STRENGTH INCREASE

(a) T O S from desertion on being apprehended by Corps of Military
Police in Arlington Road, Camden Town at 1140 hrs 26 May 44
F 86332 PTE TYNES. G A "CIC"

"Fred A.H. Gallop"
.....
(F A H Gallop) Captain & Adjutant
No 4 Cdn Infantry Reinforcement Unit

CERTIFIED TRUE EXTRACT

Fred A. H. Gallop

Captain Adjutant,
4 Cdn Inf Rein Unit. 26 Jun 44

W.D.

OFFICER ISSUING WARRANT AND EXPENSE MONIES R. E. BIRCH,
ADMINISTRATIVE OFFICER - D.P.M. BR.
No. 8 Provost Company, Canadian Provost Corps, Canadian Provost Company, C.M.H.Q.

LIEUT. Capt. *W. J. Birch*

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

Date	Particulars	Amount
30 May 44	Escorte return fare from LONDON To <i>Belmoly</i>	16 11
	Prisoners single fare to LONDON From <i>Belmoly</i>	16 11
	Prisoners fare from <i>London</i> To <i>Belmoly</i>	16 11
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	1 13 10
Total		51 13 10

The following expenses were incurred in apprehending and returning the M/N Soldier to his home from *Belmoly London*

Reg. No. *586332* Rank *P.* Name *W. J. Birch* Unit *4 C.I.R.V.*

CHARGE

EXHIBIT "D" 1307
4229
Army Form B 252
(See King's Regulations)

ROYAL CANADIAN ENGINEERS

No. 1 C.B.U.

Regiment
Battery
Squadron
Troop or
Company

Rank CAPTAIN

CHARGE against No. 2/86332

Name TINES, D.A.

Date of Offence

Place

until

OFFENCE W.O.A.S. ARREST FROM

apprehended by the Military Police in ARLINGTON

ROAD, CANBY TOWN at 11.40hrs. on 26 MAY 1944.

(2) Attempting to evade arrest. at 11.15hrs.

14, CANBY HIGH STREET, on the same

WAGON

Names of Witnesses :-

1521074

485588a

1/21. ASSISTANT PROVOST MARSHAL,
LONDON CO.,
G.H. POLICE.

Signature of O.C. Battery,
Squadron, Troop or Company

Punishment
Awarded

By whom
Awarded

Adjutant

P.T.O.

STATEMENT OF EVIDENCE IN THE CASE OF

No. 2/86318 SAPPER TAYNS, C.A.
ROYAL CANADIAN ENGINEERS,
No. 1, C.P.N.,
CANADIAN FORCES, ENGLAND.

Sir,
At LONDON on 26 MAY 1944 at 11.15hrs
I was on M/C patrol in GARDEN HIGH STREET
in company with CPL. J. WATERS, C.M. POLICE
when I saw the above named soldier and asked
him for his pass. He said "I have not got
one, I am only up here for the day." I asked
to see his M.B.M.I. and he produced all parts.
I noticed that his last payment was 5 APRIL 44.
I asked him if he was absent and he replied
"No, I am not." I told him that I would detain
him for enquiries and take him to a police
station. I was proceeding to do so when he
run away. I gave chase and at 11.40hrs I
again saw him in ARLINGTON ROAD GARDEN TOWN.
I arrested and conducted him to ALBANY
STREET POLICE STATION where he stated "I am
absent since 7th APRIL 1944." He was handed
over to await a C.M.P. escort.

L. Hall
C.M. POLICE.
L/CPL.

26 MAY 1944.

LONDON.

the above statement.

REMARKS

I have reviewed every and corroborate

C.M. POLICE.

26 MAY 1944.

LONDON.

[Signature]
C.M. POLICE.
CPL.

No. PE6332 Name **TYBEE, G.A.** Sign. Battery, or Company
 Date of last entry in Company Conduct Sheet **N/A** No. and date of last drunk **NIL**

Period not reckoning towards freedom from extra fine **N/A**
 Corps **RCE**

Date of enlistment **9/12/41** G.C. Badges
 Sheet No. **1.** Signature G.C. Company, etc.

Service or Proficiency Pay
 M.F.M. 6
 (A.F. H.122)
 40/P & 8/130 (2065)
 Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 29/6/42; Last entry - 5/3/42; (C.A.R.O.) 2084					
Petawawa	21-5-42	Spr.		AWL- from 0700hrs. 21/5/42 until 0600hrs. 22/5/42 (Absent 23 hrs.)		Documentary 2 days C.B.	22/5/42	J. Warburton	Forfeits Maj. RCE 1 days pay
Field	13-7-42	Spr		AWL- from 1800hrs. 13-7-42 until 1916hrs. 13-7-42 from a special parade called by his O.C. Troop (Absent 15 mins.) A.A. Sec 16(1)	Cpl Carswell	Summary forfeiture 3 days pay	14-7-42	Maj H.H. Minshall	
Field	13-9-42	Spr		Conduct to prej. ext. In that after being warned three times to fall in on a parade did so did so in such a manner to delay parade	Cpl Marshall	Summary Forf. 10 days pay A.A. Sec. 40	14-9-42	Maj. H.H. Minshall	

(P.T.O.)

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-10-43	SPR		AWL from 2400hrs 10-10-43 to 1900hrs 11-10-43 (Absent 19hrs)	Sgt Carswell	Summary Forf. 3 days pay	13-10-43	Maj. H.H. Minshall	Forf. 1 days pay PRAI 149(1)
Field	15-2-44	Spr.		AWL from 2359hrs. 13 Feb. 44 until 1320hrs. 14-2-44 (Absent 13hrs. 21mins) (A.A. 15(1))	L/Cpl Nesby L/Cpl Brannan	7 days F.F.	15-2-44	Lt. Col. H.G. Woods	Forf. 1 days pay PRAI 149(1)(a) Total forf 8 dys P

CERTIFIED TRUE COPY

A J Guiler Lt Colt.
OFFICER HAVING CUSTODY OF REGIMENTAL BOOKS.

Captain Adjutant.
4 Sds Inf Rein Unit.

*Exhibit
W.P. Allen*

#4 Canadian INFANTRY REINFORCEMENT UNIT, C.A.(C). 4C/24

24 Jun 44

194....

I, No.... F. B6332, Pte. Tynes, D. A....., wish to have
(rank) (name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of... Lt. Monnin.....
if he is available.

(Sgd.)

D. A. Tynes.....

ms

Telegrams;
SLC no 1271,
EX. C or 15.

Chelsea Barracks,
London, S.W.1.

Should it be necessary for the W.C.Os named as
witnesses on the attached A.F.B. 282, to attend a Court Martial,
it is requested that at least 72 hours warning be given prior
to the date of the Court Martial.

C. J. J.

24 Jun 44

This is to certify that I have recieved the following documents
free of charge.

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

Y. A. Lyles
(P 86532 Fto Lyles G A)

W. B.

LIST OF WITNESSES

in the case of F 86332 Pte Tynes G A, 4 C I R U

FOR THE PROSECUTION

1. Capt. R J McLaughlin, 4 C I R U .
2. No. 1553234 L/Cpl. Hall W J, Corps of Military Police.
3. No. 4855881 Cpl. Waters J, Corps of Military Police

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

in the case of F 86332 Pte Tynes G A, 4 C I R U

- Exhibit "A" - Declaration of a Court of Inquiry
Exhibit "B" - Part II Order Extract Form
Exhibit "C" - Expense Voucher
Exhibit "D" - AFB 252
- WAS*

Y44-71

Gov. Jyo. CH

SCHEDULE.

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

Accused: D 6982 1st Lt Curtis Henry Tyo, 7th Airborne Regt, R.C.A.

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
(Insert "alternative" where applicable.)	(See Instrs p 2.)	(See note below.)	
1st <u>Art Sec 15 (U)</u>	<u>not guilty</u>	<u>guilty</u>	
2nd <u>Art Sec 6 (S) (U)</u>	<u>not guilty</u>	<u>guilty</u>	
3rd <u>Art Sec 40 (Alt)</u>	<u>not guilty</u>	<u>not guilty</u>	
4th			
5th			
6th			

(Note: As to findings for lesser offenses see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in loss of kit see RP 44 fn 6.)

At present under sentence for: beginning on (date) Henry (1)
 (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)
 Time in confinement awaiting present trial—a total of two days, of which two days were spent in hospital. (4)
 (1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 120 day - detention.

(Sgd) Garrison, Maj 29 Aug 44 J. P. Plauson
 Judge-Advocate, if any Date awarded. President. (RP 45, 50)
 (See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(S), RP 120(F), MML p 762.)

Date (Sgd) Commanding

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

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

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

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (4) 710
 (1. AA 57A. Delete if not used.)

(Sgd) J. P. Plauson
 Date 31 Aug 44 Commanding 1st Lt Curtis Henry Tyo
 Confirming Officer.

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

Accused. Date. Signature of Offr.
D6982 1st Lt Curtis Henry Tyo. 1 Sept 44 J. P. Plauson
7th Airborne Regt, R.C.A. COMMANDING OFFICER
7th Airborne Regt, R.C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.



RECORDED AT CMHQ IN AB 160
FIELD GENERAL COURT-MARTIAL (In lieu of AF 33) (20-F-8-1008 (2004))

Order of 1st Lt Curtis Henry Tyo Comd arty dated 27 Aug 44

ACCUSED.

(As to trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appoint, A/rank or A/appoint, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)
 Number. (a) Prmit R. (b) Appnt, A/R or A/Appnt. Full Christian Names. Surname. Unit.
D 6982 1st Lt Curtis Henry Tyo 7th Airborne Regt, R.C.A.
 PROCEEDINGS REVIEWED
 REVIEWING OFFICER, 1st BRANCH J. P. Plauson
 Held in the Fd in (country) Italy on (date) 27 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2B 15

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.
 (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns, ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)
 A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto. (1) The Court is satisfied that it is properly convened and constituted (2), accused is (a) amenable to military law, and each charge discloses an offence. (3)
 (1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)
 A3. The Court is opened. The accused is (a) brought before the Court. At 1000 hours trial commences.
 A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. (1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO. (2)
 (1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)
 A5. President to accused: Do you object to _____ as interpreter? Ans no
 The interpreter is sworn. (1) Do you object to _____ as shorthand writer? Ans _____
 (1. RP 72. Delete, if none employed.)
 A6. The Convening Order and names of the President and Members of the Court are read to the accused. (1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans no (2)
 (1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)
 A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn. (1) The following are the ranks, names and units of the offrs comprising the Court, etc:
 President Major E. V. Wilson Hq 1st Air Corps
 Member 1st Lt W. L. Stanley 1st Air Corps Regt (same as above)
 Member 1st Lt R. N. Walsh 7th Airborne Regt
 Judge-Advocate Major Garrison Hq 1st Air Corps
 Prosecutor 1st Lt P. S. Davis 7th Airborne Regt
 Defending Offr Capt J. K. Stephens 7th Airborne Regt
 Questions by President: Is the Prosecutor a lawyer? Ans no Is the Defending Offr a lawyer? Ans no (2)
 (1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
 (2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)
 A8. The accused _____ before arraignment make(s) (to) (3) plea _____ (4)
 (1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to A&P cited. Insert in AB rank and name of the accused making the plea.)
 A9. The accused is (are) arraigned (separately) on all charges in the charge sheet. (1) The accused does (do) not object to any charge. (2) There is no amendment to be made to the Charge Sheet. (3) The President records the plea in Part I of the Schedule.
 (1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)
 A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form _____
PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

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

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans Yes ⁽¹⁾
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 36(F) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.

5. Statement, if any, recorded per Notes.)

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Statement under oath Do you intend to call witnesses on your behalf?

Ans No Are they witnesses as to character only? Ans No
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.⁽¹⁾
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? ⁽¹⁾
Ans Yes
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

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

(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

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

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 67, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 200, 232, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(S), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(I)(8), 52(I), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D-6982 Gnr Curtis Henry TYO,
of 113 Bty, 7 Canadian Anti-Tank Regiment, RCA, a soldier
of the Canadian Army Overseas, is charged with:

When on active service, absenting
himself without leave,
in that he,
First Charge
Section 15(1)
Army Act
in the Field, on 22 AUG 44, after
having been warned for special detail,
absented himself without leave from
1000 hrs 22 AUG 44 until 1700 hrs 22
AUG 44. (Total absence: 7 hours)

When on active service, when a soldier
acting as sentinel, leaving his post
before he was regularly relieved,
in that he,
Second Charge
Section 6(2)(A)
Army Act
in the Field, on 23 AUG 44, after
being posted as sentry on "K" Troop
lines left his post without having
been regularly relieved.

When on active service, conduct to
the prejudice of good order and
military discipline,
in that he,
Third Charge
(Alternative)
Section 40
Army Act
in the Field, on 23 AUG 44, when a
member of the guard on "K" Troop
lines after being awakened and warned
to take over his tour of duty as
sentinel failed to do so.

J.A. Gillies
(J.A. Gillies) Lt-Col
Comd 7 Cdn A/Tk Regt RCA

In the Field,
23 AUG 44

To be tried by Field General Court-Martial

E.C. Flow
(E.C. Flow) Brigadier
C.C.R.A. 1 Cdn Corps

In the Field,
27 AUG 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB)
40/PAN/1607 (2003)

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

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

ACCUSED.

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

D-6982 Gnr Curtis Henry TYO, 7 Cdn A/Tk Regt, RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~N~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(N)~~ attached and on (date) 27 AUG 44 endorsed by me, ~~(to be an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

Major E.V. Wilson HQ 1 Cdn Corps
(Rank) (Must be named. RP 106.) (Unit)

MEMBERS.

A Lieut to be detailed by CC 1 Cdn Corps Def Coy (Lorne Scots)

A Lieut to be detailed by CC 7 Cdn A/Tk Regt, RCA (Unit)

WAITING MEMBER.

A lieut to be detailed by CC 1 Cdn Corps Car Coy, RCASC (Unit)

JUDGE-ADVOCATE.

Major G.M. Morrison DJA 1 Cdn Corps
(Rank) (Must be named, if any. RP 106.) (Unit)

On Active Service in the Fd

in Italy E.C. Flow Brigadier
(Country) (Signed personally. RP 105 fn 2) (Rank)

Date 27 AUG 44 Commanding 1 Cdn Corps Artillery
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

113rd Box 7 247 mag

R. G. A.

29 AUG 64

06982

I have examined this soldier, ⁰⁶⁹⁸² 1st Lt. 1st Inf., 1st Div., and

certify him fit to undergo trial by court-martial.

29 Aug 64

Hamm... Lt. Colonel
1st Cavalry

1.

JW

Evidence for the Prosecution

First Witnesses for the Pros:

Sergeant J. F. Carpenter 115 Bty, 7 Cdn A/26 Regt having been duly sworn states: I am OC "K" 2p. At 1000 hrs 22 Aug 44 Sgt Wilson reported the accused to me as abs. On 21 Aug 44 I told accused he was to stand by to go out on special detail. At that time I did not know what the work was to be. We moved off on the detail about 1300 hrs 22 Aug 44 and accused was absent and did not go with us. The detail was loading B.E. stores at Dump near Jasi. About 1930 we returned to Camp from the detail and the accused was there in camp. I had called for the accused in the 2p line but could get no answer and then I sent Sgt Spice down to the river to look for accused; the river was about 100 yds from the camp and the men sometimes went there to wash. Sgt Spice did not find accused but found another member of the detail who was missing when we were ready to move off. On the 0800 hrs parade 22 Aug 44 I told the 2p with accused there, that the man on special detail would stand by again today and be ready to move off on receipt of notice.

I awoke at 0515 hrs 22 Aug 44 in my tent and seeing Pdr Kosteruk, the 2d Comd, I had a conversation with him and as a result we went to accused's tent and found him asleep in bed - the time was 0520 hrs. By this time it was

2. J

Bdr Kostomarov's tour of duty and we did not wake accused. At about 0550 hrs accused came and talked to Bdr Kostomarov outside my tent. He asked the Bdr how long he had been up and the Bdr replied that they went back to bed.

xxd There is no definite Bty area laid down. I took the detail to check around the tp lines. RP 83(B) complied with.

Second witness

U 1506 Sgt J. A. Macdonell 113 Bty 7 Cdn A/Sk Plt having been duly sworn states: I am Pp Sgt "K" Tp. 113 Bty. At 1000 hrs 22 Aug 44, Sgt Wilson reported the accused absent. While eating my supper at 1700 hrs 22 Aug 44, I saw accused eating his supper by the kitchen. I placed him under open arrest. I then looked around the lines after he was reported absent and called for him but couldn't locate him.

no cross exam.
By the Court: While looking around the lines I looked in accused's tent and he was not there.
RP 83(B) complied with.

Third witness

M 63541 S/Sgt R. F. Wilson K Tp 113 Bty 7 Cdn A/Sk Plt having been duly sworn states: I am No 1 in charge of the gun crew of which accused is a member. On ^{morning of} Aug 44 I took accused to carry on with maintenance on

has been gone. at 1000 hrs I noticed he was missing, and after looking around the Stg area and not being able to find him I reported his absence to Lieut Carpenter and Sgt Macdonald.

xxd. There was no maintenance parade. When maintenance is done the ty members cannot break off without permission. If accused had wanted to go for a swim he should have come to me for permission. R.P. 83(B) complied with.

Fourth Witness

M 362 Bdr Kostomak W. "K" of 112 Stg. 7 A/84 Regt having been duly sworn states: on night of 22-23 Aug 44, I was gd comd of the line gd. The accused and Enr Sherman were members of the gd. I figured out the shifts and told each one of them what their tours of duty were. Enr Sherman's tour was until 0300 hrs, 23 Aug 44; the accused to relieve him and to awaken me at 0445 hrs 23 Aug 44. Shortly after 0300 hrs, Enr Sherman and myself awake accused at his tent. He got up and asked to see the time. I showed him the time. It was then 0320 hrs. Enr Sherman and I then went to our tents. Before we left, accused had started to walk his beat through the lines. The gd was under arms. Accused took up his rifle and went on his beat. I went to bed and woke when it was getting light and went out and found out from Lieut Carpenter that

4

It was 0520 hrs. The accused had not awakened me as he was told to do at 0445 hrs. Mr Carpenter and I then went to accused's tent and he was in bed. His blanket was over his head. At 0550 accused came to me and asked the time. He asked me how I got up and I told him I had awakened myself at 0520 hrs. He then went back to his tent and I continued with my tour of duty,
no cross-exam.

R.P. 83(B) complied with.

Fifth Witness

795695 Cms A Sherman 113 Bty, 7 Cdn A/Sk
Pvt having been duly sworn states:

I was a member of the 2p guard on night of 22-23 Aug 44. My tour of duty was from 0115 hrs till 0300, 23 Aug 44. At about 0320 hrs, Pdr Kostenuk and I woke accused whose tour of duty was supposed to start at 0300 hrs. He was a member of the guard. He got up, got dressed and went on his beat. I then went to my tent and went to bed.

no cross-exam.

By the Court: The duty of the guard was to guard the vehicles and guns - to keep patrolling where they were, back and forth. When I last saw accused before going to bed, he was down by the trucks, scanning a rifle.
R.P. 83(B) complied with.

The same
status:

weapons
on 22 A

read out a
maintenance
were told to
hour of man
broken off.

I went to my tent, did
I thought I'd go to sleep 12 Jan. Didn't take long
while there I asked a Bdr and he was
detail had left yet and they said "No". I
lay down and fell asleep. About 150
I awoke at the time, so I watched them
swimming there until supper time. About
and stayed there for supper. Sgt. Michael
1630, went back for a rest. After
I heard no more from Bdr Kostumb
supper. My shift was from 0300 till
0445. I was awakened by Bdr Kostumb
and he said "Get up, I told me it was
my time to go on shift. I got up, put my
Kostumb the time. He said it was 0320 hrs.
I went to Mr. Carpenter's tent as I saw
someone in his bed and did not know
he was back from the detail. I raised
his net and he asked me what I
wanted. I told him I thought they were

5.

Evidence for the Defense.

The accused having, having been duly sworn states: Before 0800 hrs parade we have weapons clean for inspection. After parade on 22 Aug 44 before being broken off for maintenance, My Lt Comd, Mr Carpenter, read out names of detail including mine. We were told to stand by but not given any hour of move. - nor where to stay, when broken off, I went to my tent, dusted my Bren gun and went to help rest of gun crew to clean 12 pdr. Didn't take long as I thought I'd go to river and have wash. While there I asked a Bdr and gun if detail had left yet and they said "no." I lay down and fell asleep on the bank, when I awoke it was after dinner, about 150 swimming there at the time, so I watched them and stayed there until supper time. About 1630, went back for supper, Sgt McDonald placed me under open awning. After supper Bdr Kostinuk told me I was on guard. My shift was from 0300 till 0445. I was awakened by Bdr Kostinuk and Gun Storman who told me it was my time to go on shift. I got up, put my pants and shoes on and asked Bdr Kostinuk the time, He said it was 0320 hrs. I went on my tour of duty. At 0420 hrs I went to Mr Carpenter's tent as I saw someone in his bed and did not know he was back from the detail. I raised his net and he asked me what I wanted, I told him I thought they were

got back from detail and I wanted to see who was in his bed. I then continued on my tour of duty until 0445 at which time I woke Bdr Kostomak up. After seeing him putting his shoes on, I went back to bed in my tent - two beds from his. I later went to the latrine and saw the Bdr talking to My Carpenter. I asked him the time as it was day light I asked and he told me 0550. Duville being at 0630, I went back to bed.

xxd I asked about the detail because I knew I was on it. I wanted to know if they had been called up to go as I wanted to get back to be on it. When I went to sleep there was a gun and bdr who were on the detail, at the river. The bdr was Bdr Quinn and Gun Ramage. I did not see them when I woke up.

By the Court: I went to the river around 1100 hrs. After our maintenance is done we are on our own and can go where we like in the Camp area. I cannot say I saw Bdr Kostomak on his beat after I woke him.

R P 83(B) completed with.

Sgt J D Carpenter, the first witness having been recalled by the Court is examined on his former oath:

The accused did not wake me at 0420 hrs, ^{2:30} and the first time I saw him that morning was at 0520 hrs when I went to his tent and saw him in bed.

R P 83(B) completed with.

A

7

M 362 Betr W Kertin is the fourth witness
is recalled by the Court and examined
on his former oath:

The accused did not wake me at 0445
hrs on 23 Aug 44. I was only dosing and
wake myself up. The first time I saw
accused ~~that~~ that morning was at 0550 hrs
when he came to Mr Carpenter and
me to ask the time - that is after I
wake him up at 0320 hrs. I swear
positively that he did not wake me that
morning.

RIP 83(B) complied with.

GP

In dealing with the first offence I wish to lay before the court those facts which have been established. The accused had been properly warned of his inclusion on the party for special detail and had knowledge of the fact that he was in notice to stand by for movement anytime - The Mr Carpenter himself stated that he knew not when to expect the call out. He left his troop lines and allotted duties without furnishing the offence at anytime, more so, when a call out is pending. He was absent from 1000 hrs until until 1700 hrs - a length of time well over the maximum four hours stand by notice, making only one effort in all that time - prior to the noon hour to ascertain whether or not the detail had been called. By so neglecting his duty as a soldier and disregarding a lawful order - correctly interpreted by all other members of the party - he deserted himself from his Battery for some hours, thereby causing a vacancy in the detail standing by, that had to be filled by another man.

On the evening of the 23 Aug 44, having been properly warned, he mounted guard. He was awakened by Sgt Sherman and Bdr Kostomuk at 0320 hrs and at that time got up and patrolled his beat as is expected of a sentry, while flying the guard commander Bdr Kostomuk, that he was fasted and on beat. Bdr Kostomuk returned to his bed and lay down in it, dressed and dozed lightly. It was the duty of Sgt Tjo to awaken Bdr Kostomuk at 0445 hrs. ^{An order that effect} It was included in the mounting of the guard. From this point testimony differs. Contradictions, on oath, by these two witnesses and the accused arouse doubt. Sgt Tjo states he did awaken Bdr Kostomuk and that Bdr Kostomuk did get up. Bdr Kostomuk states definitely that no such thing happened, that he awoke himself at 0520 hrs. He further states that he was not sound asleep, but just dozing, a statement which would point to his being able to arouse himself at 0520 hrs and tend to dispel the theory that a man, woken from a sound sleep, may respond to an order to wake up, and unless ~~awakened~~ completely aroused

shaker, were fast asleep again with no knowledge of the
 interruption. The accused also states that he woke at
 Carpenter's ~~apartment~~ at 2420 hrs. and questioned him. A
 statement which Mr. Carpenter denied emphatically. As an
 officer, accustomed, as the majority of J. officers are, to being
 aroused suddenly during a night's sleep, such an event
 can hardly be expected to have escaped his memory
 a few hours later. However, it is for the court to
 judge and decide whose statement to accept - if any.
 The fact, too, that Mr. Tye approached Mr. Kosterich
 at 2550 hrs. - sometime before sunrise and after he
 completed his tour of duty - and asked him how he had
 got up leaves no doubt in my mind as to the
 accused's curiosity to find ^{out} where Mr. Kosterich
 managed to ~~get~~ ^{wake} up and be patrolling his beat, that
 time.

~~My opinion is that~~
 In spite of contradictory evidence in the ^{second} ~~first~~
 affidavits, I find it hard to condemn the innocence of
 the accused on the face of established facts. He failed in his
 duty as lawfully paid duty - and that is the charge against
 him.

I ~~find~~ ^{think} that the accused is found guilty on both
 charges.

R. L. Lurie d.

2. In the event of a suit, the plaintiff
of a to address on law. Also with
of a W.L. before to with to see 15 113 A.H.
the amount charge, necessary for
to from account paid on for with
after 21 suit on part - necessary of part
to make a debt. Alternative charge.

Summary of Judge's order
B

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Regiment (or unit)

Number Rank Name
D69E2 Gnr TYO, C.H. 7 Co. A. Tk. Regt, P.C.A.

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

Within last 12 months		Since enlistment or appointment	
For AWL A.A. Sec 15(1)	4 times	AWL A.A. Sec 15(1)	6 times
For Breaking out of Bks	1 times	Breaking out of Bks	3 times
For AA Sec 10	1 times	AA Sec 10	1 times
For Conduct to the prej	1 times	Conduct to the prej	1 times
For A.A. Sec 40	1 times	AA Sec 40	1 times
		Drunkness AA Sec 19	1 times
		Drunkness AA Sec 19	1 times

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

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

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

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

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

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

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and No days in military custody, making a total of No days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his record of service is 39 yrs 9 mos.

6. The date of his commission specified in his record of service is 17 Dec 1940.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 6 mos.

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

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

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

ND-6982 Name Tyo C.H.

Sqn. Battery
or Company

Corps R.C.A.

Date of
enlistment 17.12.40

GC
Badges

Service or
Proficiency Pay

MFM 6
(AFB 172)
40/P&S/136 (3488)

Company Conduct Sheet

No and date
of last drunk

N/A

Period not reckoning towards
freedom from extra fine

N/A

Sheet No 2

Signature OC
Company, etc

Major D.J. Halfhide

Signature

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		Sheet destroyed 1 Dec 42 Date of last entry					
Field	16.9.41	Gnr		A.A.15(1) A.W.L. from Guard Mounting (absent 2 hrs 30 mins)	Sgt Clark Gnr Kowbel	14 Days C.B.	14.2.41, 20.9.41		Cases of drunkenness (1) 2-6-41
Field	17.9.41	Gnr	(2)	A.A.19 Drunkenness	B.S.M. Ferrazo Sgt Jenkins	Fine \$5.00	20.9.41	Lt Col L.A. Devine	
Field	17.9.41	Gnr		A.A.10 Breaking out of Barracks	B.S.M. Ferrazo	7 Days C.B.	20.9.41	Major J.K. McCullagh	
Field	4.10.41	Gnr		A.A.10 Breaking out of Barracks	Sgt Neilan Bdr Stilwell	7 Days C.B.	9.10.41	Major J.K. McCullagh	
Field	18.10.41	Gnr		A.A.15(1) AWL from 2000 hrs 18.10.41 until 0300 hrs 19.10.41 (absent 7 hrs)	Sgt Neilan Gnr Wallace	7 Days C.B. 8 Extra Guards	21.10.41	Major J.K. McCullagh	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7.9.43	L/Mr		A.A. Sec 15(1) WCAS A.W.L. from course from 0830 hrs until 1730 hrs 9 Aug 43 (absent 9 hrs)	A/R.S.M. Giffin S.B. Sgt R.J. Cunningham	Reprimanded	11 Aug 43	Col C.F. L'Encier Dale	
Field	14.10.43	Cor		A.A. Sec 15(1) WCAS A.W.L. from 2300 hrs 14 Oct 43 until 0130 hrs 15 Oct 43 (absent 2 hrs. 30 mins). Apprehended	Mr Stewart Deaconberry	1 Days pay	20 Oct 43	Lt. Col. J.A. Gillies (20.5.10)	Pay cost of Appr
Field	7 Dec 43	Cor		A.A. Sec 40 WCAS Conduct; was improperly in possession of 2 blankets.	Mr Linsmore Cor Pakaluk	10 Days F.N. 10 Days pay	8 Dec 43	Major R.H. Quigley	
				Certified that this is true copy of the original					
				16					

No D6982 Name Tyc G.H.

Sqn. Battery
or Company

Corps R.C.A.

Date of
enlistment 17 Dec

OC
Badges

Service or
Proficiency Pay

MFM 6
(AFB 133)
40/P&S/130 (1943B)

Sheet No 40

Signature OC
Company, etc

Character

Company Conduct Sheet
Date of last entry in

No and date
of last drunk

Period not reckoning towards
freedom from extra fine

Place	Date of offense	Rank	Class of drinking case	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19.7.44	Gnr		(1) A.A. Sec 15 (10) WOAS AWL from 2230 hrs 19 Jul until 2330 hrs 19 Jul 44. Absent 1 hr.	L/Bdr Norman		23 July 44		
Field	20.7.44	Gnr		(2) A.A. Sec 10 (4) WOAS breaking out of barracks, in that he, at 1600 hrs 20 Jul 44 left the Bty area while under open arrest.	B.S.M. Paterson Sgt Mac Donald I.W.	Punishment awarded on three charges	25 July 44	Major G.P. Marriott	For 28 days pay FR&I 149
Field	20.7.44	Gnr		(3) A.A. Sec 15 (1) WOAS AWL from 1600 hrs 20 Jul 44 until 0045 hrs 21 Jul 44. Time absent 8 hrs 45 mins.	B.S.M. Paterson Sgt MacDonald L/Bdr Quinn	28 days F.P.	28 July 44		pay FR&I 149 I (a)

~~Certified true copy~~

(PTO)

Summary of evidence in the case of D6982 Gnr Curtis Henry TYO, 113
Battery 7 Canadian Anti-Tank Regiment, Canadian Army Overseas, charged
with;

- (1) Absent without leave from 1000 hrs 22 Aug 44 to 1700 hrs 22 Aug 44.
- (2) When a soldier acting as sentinel leaving his before he was regularly relieved.

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

First Witness

Lieut J.T. Carpenter K tp, 113 Bty, 7 Cdn A/TK Regt, sworn states:

I am troop Commander K Troop, 113 Bty, 7 Cdn A/TK Regt. on 22 Aug 44 K Troop was ordered to stand by on special detail. At 1000 hrs, 22 Aug 44 Sgt Wilson reported to me that Gnr Tyo was AWL. We were on stand by, waiting to move off on special detail. Gnr Tyo had been warned by me that he was on this detail, and that he was on stand by. When the detail moved off at 1350 hrs Gnr Tyo was still absent. About 2030 hrs 22 Aug 44, this detail in charge of myself returned to the camp area. It was reported to me that Gnr Tyo had appeared in the lines and had reported to Sgt MacDonald at 1700 hrs. That night Gnr Tyo was posted for Guard Duty under Guard Commander Bdr Kostenuk. I awoke at 0515 hrs 23 Aug 44. I lay in bed for about 5 minutes then Bdr Kostenuk passed my tent. He didn't have his weapon or his mosquito net which the guard carried, with him. And knowing that he was Guard Commander I called him over to my tent and asked him if he was on Guard. He asked me the time and after looking at my watch I told him it was 0520 hrs. ~~He told me that he had just awakened and that Gnr Tyo, who had been ordered to wake him at 0445 hrs had not done so.~~ I got up and went with Bdr Kostenuk to Gnr Tyo's tent. He was in bed asleep, and as it was Bdr Kostenuk's tour of duty then, we did not awake him.

"Q" What time did I speak to you this morning (23 Aug 44)?

"A" It was about 0550 hrs when you came up and spoke to Bdr Kostenuk who was with me outside my tent.

"Q" After 1200 hrs are we not allowed to go down to the river for a swim?

"A" Yes, in this case when you are on stand by permission should first be obtained.

J.T. Carpenter
J.T. Carpenter (Lieut)
113 Battery 7 Cdn A/TK Regt.

Second Witness

U1506, Sgt. I.W. MacDonald, 113 Bty., 7 Cdn. A/Tk. Regt., sworn, states:

'I am troop Sgt. of K Tp., 113 Bty., 7 Cdn. Anti-Tank Regt. At 1000 hrs. 22 Aug 44, L/Sgt. Wilson informed me that Gnr. Tyo, whom I recognize as the accused, was absent. At 1700 hrs. 22 Aug 44, while eating supper, I noticed Gnr. Tyo having his supper. I then went over and placed him under open arrest.

The accused declines to cross-examine this witness.

I. W. MacDonald

Sgt. I.W. MacDonald,
113 Bty., 7 Cdn. A/Tk. Regt., R.C.

Third Witness

M63841, L/Sgt. R.F. Wilson, K Tp. 113 Bty., 7 Cdn. A/Tk. Regt., sworn, states:

'I am the No. 1 in charge of the gun crew of which Gnr. Tyo is a member. On the morning of 22 Aug 44 I told him to carry on with maintenance. At 1000 hrs. I noticed he was missing and I reported his absence to Sgt. MacDonald and Lieut. Carpenter.'

Q - 'Whose watch did you look at?'

A - 'Lieut. Carpenter's.'

R. F. Wilson

L/Sgt. R.F. Wilson
113 Bty., 7 Cdn. A/Tk. Regt.

Fourth Witness

M362 Bdr. Kostenuk, W., K Tp. 113 Bty., 7 Cdn. A/Tk. Regt., sworn, states:

I am a member of K Troop. 113 Battery, 7 Cdn. Anti-Tank Regt. I was in charge of the guard the night of 22-23 Aug 44. Gnr. Tyo, whom I recognize as the accused, was on this guard. I figured out the shifts and Gnr. Tyo's tour of duty was from 0300 hrs. to 0445 hrs. I was to take the shift from 0445 hrs to 0630 hrs. I told each of the members of the guard, their tour of duty, also who they were to waken and when. At 0300 hrs. Gnr. Sherman ~~xxxxxxx~~ who was on duty before Gnr. Tyo, in company with myself, awoke Gnr. Tyo. Seeing that Gnr. Tyo was awakened and ready for duty, Gnr. Sherman and myself returned to our tents. I awoke about 0520 hrs, realized it must be near my time for duty, so got up and went out to find Gnr. Tyo. As I was passing Lt. Carpenter's tent, he called out to me and I asked him the time. He told me it was 0520 hrs. Mr. Carpenter and I went to Gnr. Tyo's tent and he was in bed. As it was now time for my tour of duty, I made no attempt to disturb him, but carried on with my shift. About 0550hrs. Gnr. Tyo came up to me and asked what time it was. I told him and he asked me what time ~~it~~ had got up. I told him that I awoke myself at 0520 hrs. He then returned to his tent.

Q - What time did you and Gnr. Sherman wake me?

A - It was after 0300 hrs - about 0320 hrs.

W. Kostenuk

Bdr. W. Kostenuk,
113 Bty., 7 Cdn. Anti-Tank Regt.

Fifth Witness

F95695, Gnr. A. Sherman, 113 Bty, & Cdn. A/Tk Regt., Sworn, states:

'I am a member of the 113 Bty., 7 Cdn. A./Tk. Regt., R.C.A.. I was on guard the night of 22-23 Aug 44, from 0115 hrs until 0300 hrs. I woke Bdr. Kostenuk at 0300 hrs and we went over and woke Gnr. Tyo, whom I recognize as the accused, who was to take the next tour of duty from 0300 hrs. to 0445 hrs. We came to his tent, woke him up and he got up. It was then about 0320 hrs. When I saw that he was on his beat, I went to my own tent and to bed.'

The accused declines to cross-examine this witness.

A F Sherman

Gnr. A. Sherman,
113 Bty., 7 Cdn. A/Tk Regt.

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

The accused: 'I desire to make an unsworn statement'.

The accused, D6982, Gnr. Charles Henry Tyo, 113 Bty., 7 Cdn. A/Tk. Regt. R.C.A., states:

'I knew I had been warned for special detail. I did not leave the Battery lines. I was down at the river having a swim. I was down there until 1630 hrs. When I returned and reported to Sgt. MacDonald at suppertime.'

C H Tyo

Gnr. C.H. Tyo,
113 Bty., 7 Cdn. A/Tk Regt., R.C.A.

The accused declines to call witnesses on his behalf.

I certify that NF 4 (c), (d), (e), (f) and (g) have been complied with.

Taken by me, In The Field, in the presence and hearing of the accused, this 23 day of August, 1944.

P.S. Irwin
P.S. Irwin, Lieut.
Officer taking Summary.

COUNTER NUMBER 599308

HOUR 18.35

OPERATOR'S INITIALS gg

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO } 31, Miss G. Leamy
 COUNTY OF CARLETON } of the City of Ottawa, in the County of
 TO WIT: National Defence, make oath and say: Carleton, an employee of the Department of

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.
2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.
3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the
 City of Ottawa, in the
 County of Carleton, this
 day of
 A.D. 19

 CAMERA OPERATOR

Dated _____

 A NOTARY PUBLIC

DECEMBER 4 19 52

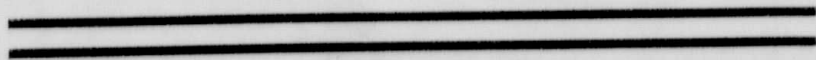
APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

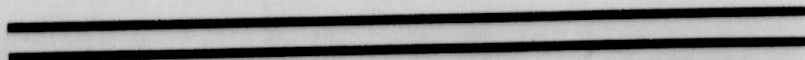
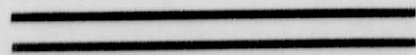
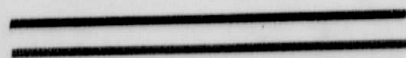
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		BOOK NO. <u>7-5</u>	INDEXING DATA <u>144-103A</u>
		BEGINS WITH <u>TURPIN, G.L.</u>	
		1. _____	
STARTED		2. _____	
		3. _____	
FINISHED		ENDS WITH <u>TTC G. H.</u>	
TOTAL NO. OF HOURS		<u>25 min.</u>	
TOTAL NO. OF IMAGES		<u>355</u>	

G.V.

END



FIRST



SIDE

4

4

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