

New York

48th-Bn. A.I.F.

With reference to the summary of evidence of Pte. Tuomi, please inform me if there is any foundation for this man's statement "no pay no work"; had this man not been paid? If not, why not?

[Signature] Captain
Staff Captain Z 12

6/7/16 33/7

Heads.

1st and 2nd.

This man has been paid at the usual rate. He has no allotment, therefore considers that he should draw 5/- in the field. The authorities - unfortunately for him - have no right of duty otherwise, hence his complaint.

P. L. Leaver

6/7/16.

Correspondence to be pinned here.

HEADQUARTERS,
RESERVE ARMY.

Army Form A. 3.

No. *Cpl/24-3-4-5*

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

PROCEEDINGS.



*State the
place and
country.

At* *In the field*, this *Eight*
of *July 8th*, 19 *14*.

day *10*
Order con-
vening the
Court.

Whereas it appears to me, the undersigned, an officer in
Command of *12th Aust Light Bde.*, on active service, that the
persons named in the annexed Schedule, and being subject to
Military Law, have committed the offences in the said Schedule
mentioned.

And 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 ex-
cept where
convening
Officer is not a
Commanding
Officer, and is
below rank of
Field Officer.

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

Omit if not
applicable.

09 I am unable 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:—]

Rank.	President.	Regiment.
	Name.	
<i>Major T.</i>	<i>Slentoff</i>	<i>47th Bn A.I.F.</i>
	Members.	
Rank.	Name.	Regiment.
<i>Capt H.F.</i>	<i>M'Donaghlin</i>	<i>47th Bn</i>
<i>Capt R.</i>	<i>Croder</i>	<i>48th Bn A.I.F.</i>

Duncan Macfarland
Signed *Buyavia Genl.*
Comd 12th Aust Light Bde
Convening Officer.

SCHEDULE.

Date July 8th

1916.

No.

Name of Alleged Offender (a)	Offence charged	Plea	Finding, and if convicted, Sentence (b)	How dealt with by Confirming Officer
3916. Corp H. H. S Sutherland B Coy 46 th Bn A.I.F.	"When on active service Absence without leave" See 15(1a)	Not Guilty	Guilty Reduced to Ranks	Confirmed by D.Y.
935 Corp T. J. O. Wallis 46 th Bn A.I.F.	"When on active service" Absence himself without leave" See 15(1a).	Not Guilty	14 days F.P. No. 2 Guilty Reduced to Ranks	Confirmed by D.Y.
3382 Corp J. W. B Cooper 48 th Bn A.I.F.	When on active service Absence himself without leave	Guilty	Guilty } Reduced to Ranks	Confirmed by D.Y.
	First charge See 15(1a)			
	Second charge See 19	Not Guilty	Guilty } 30 days F.P. No. 2	Confirmed by D.Y.
	"When on active service Drunkenness"			
1977 Pte F. Berry 48 th Bn A.I.F.	"When on active service Absence himself without leave"	Not Guilty	Guilty 8 days F.P. No. 2	Confirmed by D.Y.
2434 Pte O. Tuomi 48 th Bn A.I.F.	First charge See 96) When on active service Disobeying in such a manner as to show a wilful defiance of Authority, a lawful command given personally by his Superior Officer in the execution of his office. Second charge See 60 When on active service Conduct to the prejudice of good order & Military discipline	Not Guilty	Guilty 2 years Imprisonment H.L. Charge not proceeded with.	referred to higher authority by D.Y. Confirmed. H. L. O. K. Haj: General Comd. 4 th Div: 86? 13.7.16.

(a) If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.

(b) Recommendation to mercy to be inserted in this column.

Duncan & Co. Pty. Ltd.
Comd. 12th Aust. Div. Sec.
Convening Officer.

W. H. Loft Major
President.

No 2434 Pte Loumi V ^{1st} - ~~Head~~ Not Guilty
^{2nd} " " Not Guilty

Prosecutor (Lt Caldwell) states.

Accused is a Russian Finn, and whilst I shall endeavour to prove the offence was committed, I wish to bring before the Court, the fact that his knowledge of English is limited, and whilst understanding the order given to him, he did not realize the serious consequences of his refusal. On joining the 1st & 2nd he allotted all his pay to himself as he has no relatives ~~he is under~~ the impression that full amount of pay should be issued to him and does not understand restrictions thereon.

Prosecution
1st Witness.

No 3383 Sgt Powell W H being duly sworn states:-

In 30th June 1916. I was acting BSM for 1st B Coy 48th Bn 1st Div. I detailed Pte Loumi for guard on the following day. I handed the orders to Sgt Giles with instructions to warn accused.

On morning of July 1st Sgt Giles reported to me that accused refused to go on guard. I then personally warned accused to go on guard, but he refused, saying ~~no~~ No pay, no work, or words to that effect. I am sure accused understood that he was ~~warned~~ ordered to go on guard.

I am of the opinion that the accused does not realize the seriousness of the crime that he committed.

Accused asks no questions

By Court

I cannot say whether accused has ever been detailed for guard, before.

Witness

No 1721. Sgt Giles H. being duly sworn states:-

On the 30th June 1916. I was Orderly Sgt for B Coy 4th Bn 1st Div. ~~Accused~~
I warned the accused for guard for the following day. On the following morning I warned accused to prepare for guard, he refused saying "No pay, No work."
I informed Csm and also the Coy Commander (Capt Hartley), the latter ordered me to place accused under arrest, which I did.

By Prosecutor

I was present at the investigation of accused's case by the B O 4th Bn. I heard the B O say to accused ~~Do~~ "you still refuse duty".
Accused replied "So long as I get no money I do no work, or words to that effect". I am satisfied that accused understood that he was ordered to prepare for guard.

I do not think that accused realizes the serious consequences of his refusal.

78

Accused elect to be sworn.

Now Lt. A. L. A. being duly sworn stated:

I was warned for guard, and said
to the Sgt "No pay, No work"

By prosecution

I thought that I ought to be paid
more money. My pay book was taken away
from me on my arrival in Egypt, and I
did not get it back for some time and so
got behind with my money. Was eight
years old when I left Russia on sailing
ship, and I have been working on ships ever
since. ~~But~~ I have never been a soldier
before.

~~George~~ Giles was called to give evidence
as to character.

I have known Accused about 3 months
and he has always done what he was
told, previously, and has always
been a willing worker and has given
no trouble whatever.

Lt. Baldwin previously sworn
produced accused's A. F. B. 122.

77

Summary of Evidences

in the charge against No 2434, Private Luomi O, 48th Battalion, A.I.F.
The accused, No 2434, Pte Luomi O, 48th Battalion, A.I.F., now on active service
is charged with

Disobeying in such a manner as to show wilful defiance of
authority & lawful command given personally by his superior
officer in the execution of his office

in that he, at Moberen, on 1st July 1916, when personally ordered by Sgt
Giles, 48th Batt. A.I.F. to prepare for guard, refused to do so, saying
"No pay, no work," or words to that effect.

First
Evidence.

No. 3383 Sgt W. H. Revell, 48th Battalion, A.I.F. states -

On June 30th 1916 I was acting as C.S.M. for D Coy 48th Batt. A.I.F. and
detailed Pte Luomi for guard on the following day. I handed the
orders to the Orderly Sergeant (Sgt Giles) with instructions to warn
accused. On the morning of July 1st 1916, the orderly sergeant
complained to me that accused refused to go on guard. I then
personally warned accused that he must go on guard but he refused,
saying, in effect, "No pay, no work."

3383 W H Revell Sgt
Acting C.S.M.

Accused asked no questions.

Second
Evidence.

Rules of Procedure 4 (C)(D)(E) complied with. Taken before me ~~on~~ this first day of July 1916
No 1721, Sergeant F. Giles, 48th Batt. A.I.F. states

On June 30th 1916 I was orderly sergeant for D Coy 48th Batt. A.I.F. and
duly warned Pte Luomi for guard on the following day. On the
morning of July 1st 1916, I ordered accused to prepare for guard
but he refused to do so, giving as his only reason for refusal
the words "No pay, no work." I informed the acting C.S.M.
and also Capt. Hartley. The latter ordered me to place accused
under close arrest, which I did. Later in the day, the C.O.
48th Batt. (Lt. Col. Lane), in investigating the case, put the following
question to accused

"Do you still refuse duty?"

Accused replied

"Yes, as long as I get no money."

F Giles, Sgt 1721.

Accused asked no questions.

Rules of Procedure 4 (C)(D)(E) complied with. Taken before me ~~on~~
~~this~~ this first day of July 1916. W. Caldwell Lieut.

Accused declined to make any statement.

Rules of Procedure 4 (C)(D)(E) have been complied with.

W Caldwell Lieut.

W

9. 7. 16.

Recommendation should be entered
in proceedings

The Court submits a strong
recommendation to mercy in
the case of No 2434 He O Tuomi
on the following grounds. i.e.

- 1 The accused is a Russian Finn
of inferior education & appears
to be of low intellectual type
- 2 He appeared to think that by
refusing to work he was only
entering a protest against receiving
such a small amount of money
after expecting to be paid his
allotment in full. He said he
was in debt & could not pay.
- 3 He does not appear to grasp the
significance of military discipline.

Shuttoff Major
President

For the prosecution

1st Witness

✓
No 3916. Corporal Sutherland W.K.S. - Please Not Guilty

No 3683 Serjt Bishop V. R. being duly sworn states

On the 2nd July 1916 at 11.30pm at Outterstone, the Bn felt in to move off, Cpl Sutherland was absent, I called the roll of Cpl Sutherland's section. I next saw Cpl Sutherland the following morning at About 6 AM. at the boy billet at Sully.

My prosecution

at about 3.30pm on 2nd July 1916, the Orderly serjt warned the men that in my billet that the parade would be at 4.30pm. Cpl Sutherland was one of the party of that billet.

When the boy was dismissed from Church parade that morning, nothing was said regarding the parade in the afternoon

My board

~~Accused~~ was not personally warned by me for this parade

2nd Witness

No 2397 I Serjt Haines H.B. being duly sworn states:

On the 2nd July 1916, at about 3pm at Outterstone, Serjt Bishop called the roll of No 8 Station. Sully - RC ~~Sutherland~~ I personally saw that the accused was absent. nx
I did not personally warn the accused

for this parade - I next saw the accused
on the morning of 3rd July 1916 at Bailly.
Accused asked no questions

Major Denham H.R. being duly sworn
produced 46th Bn. Posey (Certified copy)
of 13/6/16 This was marked H

Defence Accused elects to give evidence on oath
No 3916. Capt Lutherland H.R. being duly
sworn states: -
On afternoon of 2nd July 1916 I got
all my belongings ready for move, and
then went into Baillieu to purchase some
razor blades, obtained them and returned.
When I reached billet I found the Bn
had "moved off" about 5 minutes previously.
I saw some boy stragglers, collected
them, and reported to Major Denham about
5.30pm, this would be about 15 minutes
after the Bn had "moved off".

By prosecution

Before going to Baillieu I asked Sgt Taylor
if there was any leave to
go into Baillieu - he replied No.

Major Denham H.R. being duly sworn
produced A.F.B. 122

122

Sergt Bishop V. R. was called by accused
to give evidence as to character.

Spl Sutherland has been in the
same unit as myself for the past
8 months, and I have always found
him to be a live, and trustworthy
V.B.O.

S. Sergt Haines was called by accused
to give evidence as to character.

I have known Spl Sutherland for
14 months, ever since he joined 146th Bn.
his character has been of the best; have
found him to be a good and reliable
V.B.O.

Accused states: - Have been the AIF for about
12 months, and I have been an V.B.O since
a fortnight after joining. Have not been
charged with anything prior to joining 146th Bn.

gg



BATTALION ORDERS NO 89

By Lieut Colonel G.T. Lee C.O. 46th Battalion

(part 1) 13/6/16

1. BATTALION
DUTIES - -----

2. PARADES - -----

3. BOUNDS - Previous orders concerning bounds are cancelled and the following substituted -
"No Officer or man will proceed beyond call from his billet except on duty without permission from Brigade Headquarters.
No one from other units is allowed to enter Brigade area without permission.
Police will be posted (and if necessary picquets) by O.C units to enforce these orders; any disobedience of them will be severely dealt with.
When any individual or small parties are sent away on any duty they must invariably be given signed written instructions.
Bailleul and Hazebrouck are out of bounds for all troops except those on duty who will be furnished with a special pass signed by the C.O. These passes will be sent to Battalion Orderly Room daily at 0830 for signature.

4. RATIONS - -----

5. SALUTING - -----

6. FIELD
PUNISHMENT - -----

Certified True Copy
W.R. Davidson
Signed W.R. Davidson

Captain

Adjutant 46th Battalion.

No. 3916 Name Rutherford, H.D. 13th 14th Batt Date of Enlistment 22-17-16 G.C. Badges Service or Proficiency Pay

Date of last Entry in Company Conduct Sheet } No. and date of last drunk } Sheet No. Signature O.C. Company, etc. } Character

Place	Date of Offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of Award or of Order Dispensing with Trial	By Whom Awarded	Remarks
<u>Maracum</u>	<u>17/5/16</u>	<u>Lt Sjt</u>		<u>Neglect of Duty</u> <u>Disobedience to an order given by superior officers</u>	<u>65th Pinkham</u> <u>Sgt Haines</u>	<u>Deprived of Leave 5 days</u> <u>Severely reprimanded</u>	<u>19/5/16</u>	<u>H. Col. G. J. Lee</u>	<u>Army Form B 122.</u> <u>E.T.O.</u>

No 933. bpl Wallace v 3 go. - Pleads not guilty
to the prosecution.

1st Witness Po 1953 born Harway it it ~~is in~~ and
being duly sworn states: — ^{received from}
On the 2nd July 1916 orders were ^{received from} ~~in~~ that
that boy was to parade at 11.45 pm at
Oughterton. I called the boy roll on
this parade, and found that bpl Wallis
was absent. I did not see him ~~after~~
~~that~~ again until 3rd July 1916 at Bally,
at 8 pm, when he was brought in by
bpl Harrison and one of the Boy police.
He was placed under close arrest in the
charge of bpl Harrison.

The orders for parade mentioned above were received in Bay Orderly Room at 4.30 pm on the date in question.

Battle Order No 89 of 13/6/16 of Hbth
Pm. give instruction re men remaining
within culling distance of the billet

By accused ~~By accused~~ Cpl Harrison did bring you back
accompanied by one of the boy police.

By Court

My brother On receipt of Order at 4:30pm I personally warned him for parade.
MB's statement that he was placed in the
close arrest means that he was left in charge

1st Witness of the Corporal..
Cont^d

1st Witness Major Durham R.R. being duly sworn states:-
produced 46th Bo. No 89. (Certified Copy) of 13/7/16
this was marked A

3rd Witness No 1906 Serjt. Trood. AB being duly
sworn states:-
~~On 2nd July 1916 I called~~
~~the roll of~~ When the Bn "fell in" on
Sunday 2nd July 1916, I was not present,
later on I was detailed by Capt. Edgely
to pick up any men left behind and report
to Bn at 6 pm that day. At 3.15 pm on the
2nd of July I called the roll of the men
left behind, and Sgt Wallis was absent.
we marched off. ~~At~~ I next saw Sgt
Wallis at quarry at 8 pm. in charge of
Sgt Harrison

My Prosecutor I cannot say that Sgt Wallis was
personally warned by myself.

My accused You came in early under the charge
of Sgt Harrison

My Court The Bn order re men leaving their
bills was not strictly enforced out-
of parade hours. 77-

Prisoner
continued

On the 3rd July 1916, when we did not move off at the appointed time from, the men were dismissed, and were permitted to roam about, and were permitted to be sent to warn them to return from the town, to "fall in".

Defence.

Prisoner

Accused elected to give evidence on oath
W0933. Corporal Wallis of J. O. being duly sworn states:—

When the Bn moved off on 2nd July 1916, I was away with ^{2nd} Lt Harrison and ~~Wadcock~~ and Pte Limborn, ^{2nd} Lt Harrison and myself returned to our billet at 8pm. I was not previously warned that the Bn was moving off.

On the 3rd July 1916 I paraded with party under Sergt Trood. at Bn Hd Qrs at 6 AM. We were told that we could dismiss till 10 AM. At 10 AM I again fell in, we were again dismissed. About 2pm I left the paddock to go for a shave I told ^{2nd} Lt Harrison where I was going, and about half an hour afterwards, he came round for me, we returned to the paddock and found the party had moved off. We immediately followed, and reached Billet at Sully at 8pm. I was not placed

77.

My prosecution

under arrest, and was on parade next morning. On Sunday 2nd July 1916 I was in a farm about $\frac{1}{2}$ a mile from the billet, it was customary for members of the bay to go to this farm, I was present at Church Parade on Sunday morning 2nd July 1916 and heard Gen Birchwood say "we might be leaving that night or next day."

When church parade was dismissed we received no warning, not to go away from our billet owing to what Gen Birchwood had said. I received no warning that the Bn was moving off that afternoon. On 3rd July 1916, when we were dismissed at 10 AM, I received no orders as to what time to move off.

I had no notice that the party was moving off, until 3:15 pm, until Cpl Harrison told me in the barbers shop, at about 3 pm.

By Court

I cannot recollect the time that I reached the paddock after the party had moved off. I am a Section Commander.

27

Major Denham J K produced certified copy
of accused's A.F. B. 122.

Accused states that ^{he} ~~he~~ ^{have} been in the A.I.F.
for $1\frac{10}{12}$ yrs, served in Gallipoli in 14th Bn
and had nothing against me whilst serving
in that Bn, have had no leave since March
1915 except 48 hrs.

J J. Huntley Major
Pres.



A. Whitoff Map
BATTALION ORDERS NO 89

By Lieut Colonel G.T. Lee C.O. 46th Battalion

(part 1) 13/6/16

1. BATTALION
DUTIES - -----

2. PARADES - -----

3. BOUNDS - Previous orders concerning bounds are cancelled and the following substituted -
"No Officer or man will proceed beyond call from his billet except on duty without permission from Brigade Headquarters.
No one from other units is allowed to enter Brigade area without permission.
Police will be posted (and if necessary pickets) by O.C units to enforce these orders; any disobedience of them will be severely dealt with.
When any individual or small parties are sent away on any duty they must invariably be given signed written instructions.
Bailleul and Hazebrouck are out of bounds for all troops except those on duty who will be furnished with a special pass signed by the C.O. These passes will be sent to Battalion Orderly Room daily at 0830 for signature.

4. RATIONS - -----

5. SALUTING - -----

6. FIELD
PUNISHMENT - -----

Certified true copy
W.R. Davidson
Signed W.R. Davidson
Captain
Adjutant 46th Battalion.

No. 933 Name *Walleris J. G.* *Sgt. Batty,* *"L" Corps* *1st Batt A.I.F.* Date of enlistment *1914*
 Date of last entry in *Company Conduct Sheet* No. and date of last drunk *11/5/16* Period not reckoning towards freedom from extra fine *11/5/16* Sheet No. *10* Signature O.C. *J. O. P. [Signature]* G.C. Badges *10* Service or Proficiency Pay *Good* Character *Good*

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
<i>Det. at [illegible]</i>	<i>5/3/16</i>	<i>Cpl.</i>		<i>Absent from reveille on 5/3/16 until 5 p.m. Roll call on 6/3/16</i>	<i>Sgt. Mayman</i>	<i>Reprimand & forfeit 2 days pay</i>	<i>7/3/16</i>	<i>Sgt. [illegible]</i>	
<i>Det. at [illegible]</i>	<i>11/5/16</i>	<i>Cpl.</i>		<i>Absent without leave from 0.900-13-5-16 to 11.00 11-5-16</i>	<i>Sgt. Harvey</i>	<i>Severely reprimanded & forfeit 9 days pay</i>	<i>24/5/16</i>	<i>Mr. [illegible] for C.O. 1st Batt</i>	
<i>Det. at [illegible]</i>	<i>6/6/16</i>	<i>Cpl.</i>		<i>Absent from parade</i>	<i>Sgt. Trood, Sgt. Inyford</i>	<i>Severely reprimanded & forfeit 4 days pay</i>	<i>6/6/16</i>	<i>Sgt. [illegible]</i>	
						<i>Contempted [illegible]</i>		<i>[illegible]</i>	

Army Form R 122

[Handwritten signature]

Summary of Evidence

against No. 3382 Cpl Cooper J.W.B. 48th Batt. A.I.F.

First
Witness

No. 2007 Sergeant Jones B.4; 48th Batt. A.I.F. states

I am sergeant in "C" Coy. 48th Batt. Before leaving Morris on July 2nd 1916, about 5.45 p.m., I called my platoon roll and found that Cpl Cooper was absent. I reported his absence to C.S.M. Slee. I saw no more of Cpl Cooper till he reported to me at Bailly about 3 p.m. on July 3rd 1916.

Accused did not desire to question witness

Rules of Procedure H, C, D, E complied with. Taken before me ~~on the~~ this fourth day of July 1916.

W. Caldwell, Lieut.

Second
Witness

No. 3077 C.S.M. Slee J.D. 48th Batt. A.I.F. states.

I am C.S.M. of "C" Coy. 48th Batt. A.I.F. It was reported to me, ^{by Sgt Jones} about 5.30 p.m. on July 2nd 1916, just prior to leaving Morris, that Cpl Cooper was absent from his platoon. I saw nothing of Cpl Cooper till the following day (July 3rd) about 3.30 p.m., when I saw him at our temporary billet at Bailly.

Accused did not desire to question witness.

Rules of Procedure H, C, D, E, complied with. Taken before me ~~on the~~ this fourth day of July 1916.

W. Lee

W. Caldwell, Lieut.

Third
Witness

No. 3111 Cpl Nicholson J.W. 48th Batt. A.I.F. states.

I am a corporal in "C" Coy. 48th Batt. A.I.F. Cpl Cooper was placed in my custody about 3.30 p.m. on July 3rd 1916 under instructions from C.S.M. Slee. ~~While attending to other duties during the afternoon.~~ Just before the company moved off from Bailly, I noticed that Cpl Cooper was ^{apparently} under the influence of drink. On the march from Bailly, Cpl Cooper was unable to keep up with the company, and the adjutant of the 48th Batt. (Capt Keane) instructed me to report with Cpl Cooper to the doctor (Major Woodard) and to Turkyke.

J.W. Nicholson

Accused did not desire to question witness.

Rules of Procedure H, C, D, E, complied with. Taken before me ~~on the~~ this fourth day of July 1916.

W. Caldwell, Lieut.

Fourth
Witness

Captain B.B. Keane, Adjutant 48th Batt. A.I.F. states.

On 3rd July 1916, during the march from Bailly to Beauvais, at about 9.30 p.m., I saw Cpl Nicholson interceding to persuade Cpl Cooper to join the column. Cpl Cooper was drunk and was without equipment and rifle. I instructed Cpl Nicholson to take accused to the rear of the column and have him examined by the

1st Lt. M.O., and afterwards to hand ^{him} ~~off~~ over to Lieut. Dyke who was in charge of rear party. I instructed Lieut. Dyke to place accused under arrest and to bring him on in rear of the battalion.

B.B. Leary

Accused did not desire to question witness.
Rules of Procedure 4 (C) (D) (E) complied with. Taken before me ~~at the camp~~ this fourth day of July, 1916.

W. Caldwell
Lieut.

5th witness. Major Woodland H.H. A.A. M.C. (Medical Officer 48 Bell A-17)

I am the M.O. of the 118th Regt A.I.F. About 9.30 p.m. on July 3rd 1916 I was requested to examine Cpl Cooper and as a result of that examination I formed the opinion that he was under the influence of drink.

H.H. Woodland Major

M.O.

48 B-17

Accused did not desire to question witness.
Rules of Procedure 4 (C) (D) (E) complied with. Taken before me ~~at the camp~~ this fourth day of July, 1916,
in the field

W. Caldwell
Lieut.

Accused did not desire to make a statement.

Rules of procedure 4 (C) (D) (E) complied with.

W. Caldwell
Lieut.

Documentary Evidence attached

A. J. [unclear]

To the President of the Court.

In reference to
charge 1.

I was not absent from my
duties deliberately. I was not aware
that the Battalion was to march
out. At about 12.15 P.M. on Sunday
2nd July I left the billet to visit a
person in Miteren who was giving
me lessons in French. When I
arrived back at the billet the
company had not long before moved
out. I would have followed
immediately but a member of the
Machine Gun Coy Transport told
me that the place where the Battⁿ was
going would be difficult to find and
that probably his unit would be
following early in the morning therefore
it would be better for me to wait

12



and go with him ^{the full morning} to do. However on ~~understanding~~ ^{the full morning} I decided instead to ~~wait for~~ ^{wait for} Sally at once, which I did after receiving directions as to the route from an officer of the 11th Battⁿ who had taken over our bikes. I joined my company at Sally's noon as I found my way there, which time was about 3pm 3/4/16

7/7/16

J. W. Cooper Cpl.
6. Coy
11th Battⁿ

H

Charge No. 1 Accused pleads Guilty.
Handed in a written statement
marked A. produced.

g.g.

Prosecution
1st Witness

No. 3382 bpt Cooper J.W. B. ^{Pleads} 1st Charge: Guilty
2nd Charge: Not Guilty

No 3111 bpt Nicholson J.W. being duly sworn
states:—

On 3rd July 1916 at about 3.30 pm at
Sully, bpt Cooper was placed in my custody
just before the day moved off from Sully.
I noticed bpt Cooper was apparently
under the influence of drink. On the march
bpt Cooper was unable to keep up, and the
Adjutant told me to report with bpt Cooper
to the Medical Officer, and Lieut Dyke.

~~Accused is not~~ questionable

By Court

I cannot say that accused was drunk
^{at time of starting of march}
I judged by his appearance that he had
been drinking

By accused.

You had no drink on the march from
Sully that I am aware of.

2nd Witness

bapt Leane D.B. being duly sworn states:—

On ~~afternoon~~ July 3rd 1916 at about 9.30 pm
while on the line of march from Sully to
this district, I saw the accused, he was
without his equipment or rifle and in
my opinion was drunk.

bpt Nicholson was endeavouring
to persuade him to join the column

I instructed Cpl Nicholson to take
accused to the rear of the Column
and have him examined by the
Medical Officer. I was present at the
examination, and heard the Medical
Officer certify that accused was under
the influence of liquor. I instructed the
Borpe to hand the accused over to Lt
Syke, who was the officer in charge of
the rear party.

Accused asks no questions

3rd witness

Major Wollard M being duly sworn
states:—

On 3rd July 1916, at about 9.30
pm. I was asked to examine Cpl Cooper.
As a result of the examination, I formed
the opinion that he was under the
influence of drink. It is comparatively
for a Medical Officer to form an
opinion that a man is under the
influence of drink. As a Medical Officer
I am quite satisfied that Cpl
Cooper was drunk.

By Accused

From my knowledge of you for
several months I am of the opinion
that you are a dipsomaniac

Accused statute - a statement

Accused called no witnesses

Accused states - Entered A.I.F. about 13 months ago, and shortly afterwards was appointed ^{as} sergt. I was training recruits for about 4 months & have held W.C.O rank practically the whole period of my service in A.I.F.. Whilst serving with 4th Training Bn it was recommended for Commissioned rank.

Theriot maps

✓
No 1997. Pte Berry J. - Reads. Not Guilty.

Prosecution

1st Witness

No 2007 Sergt Jones Bt. being duly sworn states:—

On 2nd July 1916 at Urris, at 5.45 am.

I called my Platoon roll prior to moving out and found Pte Berry to be absent. Reported his absence to 6 am. Next time I saw accused was about 11 pm on 3rd July 1916, at Sully. Pte Berry had no permission to be absent from his billet.

By Court.

I informed Pte Berry personally that we would be likely to leave on Sunday night.

By accused

You applied for leave on Saturday for Sunday afternoon.

I met you in Urris and warned you that the Co. would be likely to move at any time. As far as I know you were not warned before you left the billet.

Serj Baldwin W. being duly sworn produced exhibit marked F.

By Court

The accused was not notified by me of exhibit F before he left his billet. The accused was not granted the leave applied for on Saturday.

97.

2nd witness

No 3044 L Bpt Emmersit O being duly sworn states:—

On 2nd July 1916, at Merivue at 3pm I first noticed that Pt Barry was absent.

At about 5.30pm when we fell in, the accused was still absent. On July 3rd at 1.30pm, at Sully the accused reported to me. I paraded him before Lt Anderson of my platoon, at accused's request. About 10 minutes after he was placed under my charge, as corporal of the guard. ~~and~~

By accused

I do not think that you had any knowledge before you left the billet on Sunday that the Bn was moving off that day.

By witness

Sgt Jones recalled by court states:—

By court

I warned accused ^{in morning} about two hours before Bn moved off.

Said accused Bn was "standing to" ready to move off at ten minutes notice

By prosecutor

Two hours was ample time for the accused to get back before the Bn moved off.

17

Defence
witness

Accused elects to give evidence on oath
P 1977. The Perry of being duly sworn
statis.

I applied for leave on Saturday, for
Sunday afternoon, I assumed it would
be granted, and did not think the Bn
would move off that day, and so went into
Morris. Had no intention of being absent
when the Bn marched off. Returned to the
billet about 7.30pm and met lpl Cooper.

lpl Cooper said that the machine gunners
would guide us in the morning, and it
would be better to wait for them. Early next
morning we decided to set out without them,
after losing my way, reported to Coy at about
1.30pm. Reported to L lpl. Emmins,

By Prosecutor

Shortly afterwards I was placed under arrest.
I have known of orders for sudden movements
being issued in the Bn at 1977.

I know of no orders for pass to be issued
to men on leave to Morris.

To my knowledge no written passes were
issued to men on leave.

My idea was that all men whose names
were taken for leave would have it granted
unless otherwise notified.

Accused calls no witnesses

17

Accused called Sgt Jones for evidence
as to character.

I have known accused for about
11 months and have found him always
willing to do his work, and of good
character. He has never given me
any trouble.

Accused states I have been in the AIF
about 10 months, and have never
previously been crimed.

Lieut Baldwin previously sworn
produced A F B. 122 of the accused

Thurcott Major

extract A Whistell - Copy

all copy

On no account must
any man (unless on duty) leave
his billeting area today.

We may move at any
hour and it is essential
that every man shall be
present.

- A (sgd) W. J. A. W. A. W. A. W.
- B (in) BSB
- C (-) J. R. O. S.
- D (-) L. S. H.

B. J. Leane Capt
copy + 8th B
11.30 am
17/16

Army Form B. 122

[P.T.O.]

Sentences and Charge Sheets to be pinned here.

I certify that the above Court assembled on the 8 day of July 1916, and duly tried the persons named in the said 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~~)

were duly sworn.

Signed this 8th day of July 19 16

Whitcomb Major
President of the Court Martial.

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

C.
Confirmation.

Duncan Macfarlane B. 4.
Comd 12th Aust Inf Bde
signed this ninth day of July 1916
(I direct that the soldier named in the margin be not committed to prison until further orders.)

To be omitted unless the Confirming Officer desires that the sentence should be suspended.*

Signed this Mitchell day of July 19 16

Holox Map General
Comd 4th Aust Div

Promulgation & extracts taken
this day 17-7-16 McDonalds Captain
Adjutant

* Sentences can only be suspended under the Army (Suspension of Sentences) Act, 1915, when the accused is employed on active service beyond the seas.

46th Battalion

promulgated & extracts taken
this eighteenth day of July 1916

R. L. Leane CO 45th Bn

I have dealt with the reserved 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 said reserved findings and sentences.

D.
Confirmation
of reserved
sentences.

Signed this day of 19 .

General [Field] Officer in the Force.

Subject to what I have stated in the last column of the Schedule, I hereby confirm the [finding and] sentence of death in the case of , and of penal servitude in the case of

E.
Confirmation
of sentence of
death or penal
servitude.

[*and in the case of the above sentences of death I am of opinion that by reason of†

it is not practicable, having due regard to the public service, to delay the case for confirmation by any qualified Officer superior to myself.]

* Omit where confirmed by Officer in Chief Command.

† State, according to the circumstances, the nature of the country, or the great distance, or the operations of the enemy.

Signed this day of 19 .

*General [Field] Officer
in Chief Command of the Forces.*



Field General, C.M.

Cpls

7857

H. A. S. Sutherland

J. J. O. Wallis

46/A. J. J.

Ptes *J. W. B. Cooper*

J. Berry

O. Tuomi

48/A. J. J.

In-the-Field.

8th July, 1916.

M 43