

# RECORD OF TRIAL

(Proper)

of

Robinson, Jack R. 0-1031586  
(Last name) (First name and middle initial) (Army serial No.)

Second Lieutenant, Cavalry Company C, 758th Tank Bn  
(Grade) (Organization)

Camp Hood, Texas,  
(Station)

By

## GENERAL COURT MARTIAL

Appointed by the Commanding ~~Officer~~ General

Headquarters XXIII CORPS

Tried at

Camp Hood, Texas, 2 August, 1944.

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Statement by accused	
Findings	79
Sentence (or acquittal)	
Proceedings in revision	

### TESTIMONY

NAME OF WITNESS	Direct <small>Page</small>	Cross <small>Page</small>	Redirect <small>Page</small>	Retross <small>Page</small>	Court <small>Page</small>	Recalled <small>Page</small>
Bates, Lt. Col. R. L.	60					
Bear, Captain Gerald M.	7	15	23	24-27	25-29	30
Campbell, 2nd Lt. Howard B.	6					64
Cribari, 1st Lt. George Paul	65	67			68	
Elwood, Corporal George A.	71	74				77
Kingsley, 2nd Lt. Harold	63					
Lawson, Captain James R.	62					
Mucklerath, Pvt. 1c Ben W.	76	77				
Robinson, 2nd Lt. Jack R.	41	51			60	
Wigginton, Captain Peeler L.	30	34	40		41	



SO #123 Hq XXIII Corps dated 14 June 44 (contd).

14. MAJ LEONIDAS D WORD 0366546 Inf 784th Tk Bn Cp Hood Tex is placed on temp dy w/this Hq for dy w/IG Sec. WP w/out delay. Upon completion of temp dy he will ret proper orgn and sta. TOI. TPA. TDN. 1-5200 P 432-02 A 0425-24. No per diem while at this sta.

15. Following named pers 20th TD Gp Cp Bowie Tex WP Cp Hood Tex by Govt auto o/a 15 June 44 on temp dy in connection w/XXIII Corps activities upon completion of which o/a 22 June 44 they will ret proper orgn and sta:

MAJ PHILLIP M SLEET            0365158 Inf  
1ST LT WILLIAM B WILBRAHAM 01168521 FA  
\*Pfc Jack Freed                35753227

\*(Driver)

In accordance w/AR 35-4520 the FD will pay in advance the prescribed monetary alws in lieu of rat a/r \$1.00 per meal for two (2) meals to one (1) EM. TOI. VAIT. TDN. 1-5200 P 432-02 A 0425-24.

16. So much of par 2 SO 121 this Hq cs (reasgmt of Off) as reads CAPT ADRIAN C LAMOS 0492016 MC is revoked.

17. EXTRACT (appointing GCM not to be published in consolidated form).

By command of Major General CRAIG:

WALTER D. BUIE  
Colonel, G.S.C.  
Chief of Staff.

OFFICIAL:



L. K. OLSON  
1st Lt, AGD  
Asst AG

DISTRIBUTION:

CG, AGF (5)  
CG, Repl & Sch Comd (2)  
CG, XXIII Corps Arty (2)  
CO, 614th TD Bn (2)  
CO, 1143d Engr C Gp (2)  
CO, 1266th Engr C Bn (2)  
CG, 12th Armd Div (2)  
CO, 140th Inf (2)  
CO, 414th FA Gp (2)  
CO, 223d FA Gp (2)  
CO, 427th Armd FA Bn (2)  
CO, 784th Tk Bn (2)  
CO, 20th TD Gp (2)  
CO, 827th TD Bn (2)  
CO, 659th TD Bn (2)

Ea Off (5)(140)  
Ea EM (3)(18)  
C of S, G-1, G-3, Ch,  
IG, Sig, Ord, CWS, Engr,  
Fin, MP Plat, QM,  
AG (1)(13)  
JA (20)

[REDACTED]

SO #123 Hq XXIII Corps dated 14 June 44 (contd).

7. Pvt Richard W Schmoeller 32579985 and Pvt Johannes Reiff 32657069 both 1143d Engr C Gp Cp Bowie Tex are trfd to 1266th Engr C Bn same sta. WP.

8. A Board of Officers (all this Hq) consisting of:

LT COL RICHARD E KYLE	0233019	JAGD
CH (MAJ) ARTHUR C PIEPKORN	025842	USA
MAJ CHARLES A McLEAN	0318562	IGD
MAJ ARTHUR D VAN ORSDEL	0474640	AGD
MAJ HAROLD W MITCHELL	0276438	Sig C
CAPT RAYMOND L ROGERS	0350019	Ord Dept
CAPT LEONARD O MYERS	0295305	CWS
CAPT JACK B McKEE	0405096	CE
1ST LT ALBERT M WEITZMANN	01579288	QMC
1ST LT WALTER C DYKINS	01642824	FD

is aptd to meet at this Hq at the call of the senior member thereof for purpose of examining such applicants for aptmt as WOJG (temp) as may be properly ordered before it. Proceedings of the Board will be submitted to this Hq in duplicate. Auth: AR 610-15 and Sec XXV Memo No. 50 Hq Fourth A, 7 Apr 44.

9. MAJ MILAN B STEIG 0239279 Inf is reld from asgmt and dy w/12th Armd Div Cp Berkeley Tex and is asgd to 140th Inf Cp Howze Tex. WP. TOI. PCS. TPA. TDN. 1-5200 P 431-01, 02, 03, 07, 08 A 0425-24.

10. CAPT MARION G CREATH 0229515 CMP MP Plat XXIII Corps this sta and Pvt Andrew B Lapos 33625310 as chauffeur WP Cp Berkeley Tex by Govt auto o/a 14 June 44 on temp dy in connection w/XXIII Corps activities upon completion of which o/a 20 June 44 they will ret this sta. Three dollars (\$3.00) per diem while at Cp Berkeley Tex not to exceed four (4) days atzd CAPT CREATH. In accordance w/AR 35-4520 the FD will pay in advance the prescribed monetary alws in lieu of rat a/r \$1.00 per meal for two (2) meals to one (1) EM. TOI. VAIT. TDN. 1-5200 P 432-02 A 0425-24.

11. 1ST LT JERRY P FRARY 01312903 CMP MP Plat XXIII Corps this sta now on temp dy at Cp Berkeley Tex will ret proper orgn and sta by Govt auto o/a 15 June 44. TOI. VAIT. TDN. 1-5200 P 432-02 A 0425-24.

12. Par 8 SO 122 this Hq cs (temp dy of COL FRANK J VIDA 012588 GSC this Hq) is amended by adding the name of COL EDWARD G DALY 016736 CE and the name of COL WALLACE C STEIGER 08196 FD both this Hq.

13. Following named Off orgn as indicated Cp Bowie Tex WP Cp Howze Tex by mil acft o/a 14 June 44 on temp dy in connection w/XXIII Corps activities upon completion of which o/a 16 June 44 they will ret this sta:

CAPT FREDERIC A COLLINS	0319872	FA 414th FA Gp
CAPT LEONARD E MARCH	0334708	FA 223d FA Gp
1ST LT HARLEY H McADAMS	01184892	FA 223d FA Gp
2D LT JAMES M HICKS	01185054	FA 427th Armd FA Bn

VAIT. TDN. 1-5200 P 432-02 A 0425-24.

SYMBOLS: TOI - Travel orders issued under auth Ltr AGF 21 Sep 43,  
322/102 (Fourth A) (20 Sep 43, 21 Sep 43) GNGAP.

VAIT - Pers are atzd to make such variations in the itinerary  
and mode of travel and to proceed to such add places as  
may be necessary for the performance of this dy.

HEADQUARTERS XXIII CORPS

SPECIAL ORDERS

APO 103  
Brownwood Tex  
14 June 44

NUMBER 123

1. CAPT THOMAS M CAMPBELL 0418737 614th TD Bn Cp Hood Tex is  
detailed as a member of the GCM aptd by par 6 SO 120 this Hq 10 June  
44 vico CAPT BEAUREGARD KING 0412501 614th TD Bn, relieved.

2. VOGG 13 June 44: 1ST LT ALBERT M WEITZMANN 01579288 QMC this  
Hq WP Cp Barkeley Tex o/a 13 June 44 on temp dy in connection w/XXIII  
Corps activities upon completion of which o/a 19 June 44 he will ret  
this sta. TOI. VAIT. TDN. 1-5200 P 432-02 A 0425-24.

3. Following named EM this Hq are awarded the Good Conduct Medal  
under provisions of Ex O 8809 (Bull 17 WD 1941) as amended by Ex O 9323  
(Bull 6 WD 1943) for honorable and faithful service rendered, having  
demonstrated fidelity through faithful and exact performance of duty,  
efficiency through capacity to produce desired results, and whose be-  
havior has been such as to deserve emulation by all:

Tec 4 Harry E Hull 33740681  
Cpl Darrell E Williams 39910864

4. Following named Off this Hq are granted lv of absence as  
indicated:

	NO DAYS	EFF o/a
COL FREDRIK L. KNUDSEN JR 011919 Inf.	13	26 June 44
COL WOLCOTT K DUDLEY 015799 Sig C	13	10 July 44

5. CAPT LEONARD O MYERS 0295305 CWS this Hq and Tec 5 Iars Staff  
36538279 as chauffeur WP Cp Barkeley Tex by Govt auto o/a 16 June 44 on  
temp dy in connection w/XXIII Corps activities upon completion of which  
o/a 16 June 44 they will ret this sta. In accordance w/AR 35-4520 the  
FD will pay in advance the prescribed monetary alws in lieu of rat a/r  
\$1.00 per meal for two (2) meals to one (1) EM. TOI. VAIT. TDN.  
1-5200 P 432-02 A 0425-24.

6. COL WALLACE C STEIGER 08196 FD this Hq and Tec 5 Iars Staff  
36538279 as chauffeur WP Cp Maxey Tex and Cp Hood Tex by Govt auto o/a 18  
June 44 on temp dy in connection w/XXIII Corps activities upon completion  
of which o/a 23 June 44 they will ret this sta. In accordance w/AR 35-4520  
the FD will pay in advance the prescribed monetary alws in lieu of rat a/r  
\$1.00 per meal for four (4) meals to one (1) EM. TOI. VAIT. TDN. 1-5200  
P 432-02 A 0425-24.

HEADQUARTERS XXIII CORPS

APD 103  
Brownwood, Texas  
10 June 1944

SPECIAL ORDERS)

NUMBER 120)

E X T R A C T

6. A GCM is appointed to meet at Camp Hood, Texas, at the call of the president, for the trial of such persons as may be properly brought before it.

DETAIL FOR THE COURT

✓ LT COL JOHN E. PERMAN ✓	0-16419	224th FA Gp
✓ MAJ JOHN H. SHIPPEY ✓	0-910620	Hq XXIII Corps (Law Member) ✓
✓ MAJ CHARLES O. MOWDER ✓	0-292834	639th TD Bn
✓ CAPT TOM W. MOORE ✓	0-041527	547th FA Bn
✓ CAPT CHARLES H. ANGELL ✓	0-350633	529th FA Bn
✓ CAPT JAMES H. CARR ✓	0-358577	614th TD Bn
✓ CAPT BEAUREGARD KING ✓	0-412501	614th TD Bn
✓ 1ST LT ROBERT L. SPENCER ✓	0-391594	549th FA Bn
✓ 1ST LT WILLIAM G. KELLOGG ✓	0-339525	293rd FA Obsn Bn

TRIAL JUDGE ADVOCATE

✓ 2ND LT MILTON GORDON ✓	0-1824743	665th TD Bn
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ASSISTANT TRIAL JUDGE ADVOCATE

✓ 2ND LT KNOWLES M. TUCKER ✓	0-1825085	669th TD Bn
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DEFENSE COUNSEL

✓ 2ND LT WILLIAM A. CLINE ✓	0-1824137	658th TD Bn
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ASSISTANT DEFENSE COUNSEL

✓ 1ST LT JOSEPH C. HUTCHESON ✓	0-1172922	635th FA Bn
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The employment of an enlisted reporter is authorized, if available; if not, the employment of a civilian reporter is authorized.

By command of Major General CRAIG:

OFFICIAL: *A. D. Van Orsdel*  
A. D. VAN ORSDEL  
Major, AGD  
Asst. AG

DISTRIBUTION  
JA, XXIII Corps (10)

WALTER D. BUIE,  
Colonel, G.S.C.  
Chief of Staff.

Ea O conod (2)-26  
Ea Unit conod (1)-11  
CG, AGF (5)  
Files (5)

- ████████████████████
- TOI - Travel orders issued under auth Ltr AGF 21 Sep 43, 322/102 (Fourth A) (20 Sep 43, 21 Sep 43) GNGAP.
- VAIT - Pers atzd to make such variations in itinerary and mode of travel and to proceed to such add places as may be necessary for performance of this dy.
- EDCMR - Eff date of change on M/R (See Sec IX, Cir 272 WD cs).

SPECIAL ORDERS  
No. 164

HEADQUARTERS XXIII CORPS  
APO 103 Brownwood Tex 29 Jul 44

1. Par 5 SO 161 this Hq cs pertaining to reasgmt of Off is amended by deleting the name of 2D LT MARION W ROGERS 01173935 FA and substituting therefor the name of 2D LT JACK W TARMAN 01176213 FA same orgn and sta.

2. Par 6 SO 161 this Hq cs pertaining to reasgmt of Off is amended by deleting the name of 2D LT JACK W TARMAN 01176213 FA and substituting therefor the name of 2D LT MARION W ROGERS 01173935 FA same orgn and sta and so much of the same par as reads: "2D LT MONROE HEIDECORN 0543258 FA" is amended to read "2D LT MONROE HEIDECORN 0543258 FA."

3. 1ST LT KENNETH L GRANGER 01293041 Ord D atchd this Hq WP Ft Huachuca Ariz o/a 31 Jul 44 on temp dy in connection w/XXIII Corps activities upon completion of which o/a 8 Aug 44 he will ret this sta. No per diem at temp dy sta for first two (2) calendar days. TOI. VAIT. TDN. 501-16 P 432-02 A 212/50425.

4. So much of par 3 SO 142 this Hq cs as pertains to temp dy of LT COL ORLAND G HUNT (only) 0260504 FA Hq XXIII Corps Arty Cp Bowie Tex is revoked.

5. Tec 5 Jesse B Buttrick 39247135 this Hq is promoted to Cpl (temp).

6. Following changes in asgmt and dy are directed. WP. PCS. TPA. TOI. TDN. 501-31 P 431-01, 02, 03, 07, 08 A 212/50425.

	<u>RELD FROM</u>	<u>ASGD TO</u>	<u>EDCMR</u>
1ST LT WILLIAM KAPLAN 01170025 FA	667th FA Bn Cp Bowie Tex	425th Armd FA Bn Cp Bowie Tex	30 Jul
*1ST LT SIDNEY S STOKES 0925514 CE	1152d Engr C Gp Cp Howze Tex	1692d Engr C Bn Cp Livingston La	1 Aug

\*Eff upon activation.

\*Off atchd unasgd Eight Sv C Cp Livingston pending activation of unit to which asgd.

7. 1ST LT ROBERT E JOHNSON 01824030 679th TD Bn Cp Hood Tex is detailed as Asst DC of GCM aptd by par 1 SO 133 this Hq cs. vice 1ST LT MARION H BASHAM 0392064 635th FA Bn same sta reld.

8. COL LOUIS J COMPTON 07419 224th FA Gp Cp Hood Tex is detailed as member of GCM aptd by par 6 SO 120 this Hq cs.

9. So much of par 2 SO 159 this Hq cs as reads: "2D LT STANLEY C STOCKMAN 01113463" is amended to read: "2D LT STANLEY C STOCKTON 01113463."

10. WOCG 25 Jul 44: Mr John G Holt CAF-12 Civilian Automotive Advisor this Hq WP Cp Howze Tex by Govt auto o/a 25 Jul 44 on temp dy in connection w/XXIII Corps activities upon completion of which he will ret this sta. In lieu of subs a flat per diem of \$3.00 while traveling is atzd Mr Holt in accordance w/existing laws and regulations. CAF travel under auth SF dated 21 Nov 41 and of CG AGF dated 16 May 42 and CG Fourth A dated 7 Mar 44. TOI. VAIT. TDN. 501-16 P 432-02 A 212/50425.

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SO 164 Hq XXIII Corps dated 29 Jul 44 (contd).

11. So much of par 13 SO 159 this Hq es as reads: "CAPT ALBERT M WEITZMAN 01579288 OMC," is amended to read: "CAPT ALBERT M WEITZMANN 01579288 OMC."

12. Following named MAC Off orgn and sta as indicated are rel'd from further DS w/this Hq and are placed on DS w/orgn and sta as indicated:

	ORGN	PLACED ON DS W/
1ST LT JAMES GRANT 01543362	53d Med Dep Co Cp Maxey Tex	414th FA Gp Cp Bowie Tex
2D LT AUGUSTUS T RALBO 01544578	53d Med Dep Co Cp Maxey Tex	1125th Engr C Gp Cp Bowie Tex
2D LT JOHN F FITZGERALD JR 02049239	535th Med Clear Co Cp Barkeley Tex	220th FA Gp N Cp Hood Tex

WP w/out delay. No per diem at temp dy sta. TOI. TDN. 501-16 P 432-02 A 212/50425.

13. 2D LT RULAND A BALL 0519181 FA 414th FA Gp Cp Bowie Tex is rel'd from present asgmt and dy and is asgd to 427th Armd FA Bn same sta. WP. Auth: VOCCG Fourth A. EDCLR 30 Jul.

14. So much of par 12 SO 163 this Hq es as reads: "1ST LT JAMES W HAYS 01165121 FA 692d FA Bn Cp Howze Tex," is amended to read: "1ST LT JAMES W HAYS 01165121 FA 691d FA Bn Cp Howze Tex."

15. Following pers this Hq (unless otherwise indicated) P Sta indicated o/a date indicated on temp dy in connection w/XXIII Corps activities upon completion of which o/a date indicated they will ret proper orgn and sta:

*COL JAMES D GARDNER 018280 MC	Cp Hood Tex	30 Jul 44	3 Aug 44
*CH (MAJ) ARTHUR C PILPKORN 025842 USA	Cp Maxey Tex	2 Aug 44	4 Aug 44
#Pvt Leon O Chapman 34573992 (4 Meals)			
CAPT WILLIAM E FITZGERALD 0328605 FA Hq XXIII Corps Arty	Cp Hood Tex	31 Jul 44	5 Aug 44

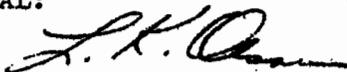
Cp Bowie Tex  
\*Govt auto. #Driver.

In accordance w/AR 35-4520 the FD will pay each Em in advance the prescribed monetary alws in lieu of rat a/r \$1.00 per meal for number meals indicated after name. No per diem at temp dy sta for first two (2) calendar days. TOI. VAIT. TDN. 501-16 P 432-02 A 212/50425.

By command of Major General CRAIG:

WALTER D. BULL  
Colonel, G.S.C.  
Chief of Staff.

OFFICIAL:



L. K. OLSON  
1st Lt, AGD  
Asst AG

**PROCEEDINGS OF A GENERAL COURT MARTIAL**

which convened at \_\_\_\_\_ Camp Hood, Texas, \_\_\_\_\_ pursuant to the following orders:

(Affix to this page a literal copy of the order appointing the court and following it, copies of any orders modifying the detail.)

Camp Hood, Texas,

(Place)

2 August, 19 44

(Date)

### ORGANIZATION OF THE COURT

The court met pursuant to the foregoing order s at 1:45 o'clock P. M.

#### PRESENT

Colonel	Louis J. Compton	07419	224th FA Gp
Lt. Col.	John E. Perman	016419	224th FA Gp
Major	John H. Shippey	0910620	Hq XXIII Corps, (Law Member)
Major	Charles O. Mowder	0292834	669th TD Bn
Captain	Tom W. Moore	0041527	547th FA Bn
Captain	James H. Carr	0358577	614th TD Bn
Captain	Thomas M. Campbell	0418737	614th TD Bn
Captain	Robert L. Spencer	0391594	549th FA Bn
Captain	William G. Kellogg	0339525	293rd FA Obsn Bn

#### TRIAL JUDGE ADVOCATE

2nd Lt. Milton Gordon 01824743

665th TD Bn  
(Now Hq 23d TD Gp)

#### ASSISTANT TRIAL JUDGE ADVOCATE

2nd Lt. Knowles M. Tucker 01825085

669th TD Bn

#### DEFENSE COUNSEL

2nd Lt. William A. Cline 01824137

658th TD Bn  
(Now Hq 23d TD Gp)

#### ABSENT

Captain Charles H. Angell, 0350633, 529th FA Bn, excused by the appointing authority.

1st Lt. Joseph C. Hutcheson, 01172922, 635th FA Bn, Assistant Defense Counsel, excused by the appointing authority.

The court proceeded to the trial of 2nd Lt. Jack R. Robinson,

(Grade)

(Name)

0-1031586, Cavalry, Company "C" 758th Tank Battalion,

(Army serial number)

(Organization)

who, on appearing before the court, was asked by the trial judge advocate whom he desired to introduce as counsel.

The accused stated he desired to be defended by regularly appointed defense counsel, assisted by 1st Lt. Robert H. Johnson, 679th Tank Destroyer Battalion, as his individual counsel. ✓

\_\_\_\_\_ Herbert Reed \_\_\_\_\_ was \_\_\_\_\_ sworn \_\_\_\_\_ as reporter. ✓

PROSECUTION TO ACCUSED: Do you want a copy of the \_\_\_\_\_ record \_\_\_\_\_? ✓

ACCUSED: Yes, sir. ✓

The trial judge advocate then announced the names of the members of the court \_\_\_\_\_ present \_\_\_\_\_ and absent.

The trial judge advocate then announced the names of the accuser, the investigating officer, officers who forwarded the charges and any members of the court who would be called as witnesses for the prosecution as follows: ✓

None.

PROSECUTION: If any member of the court is aware of any \_\_\_\_\_ fact \_\_\_\_\_ which he believes to be a ground of challenge by either side against any member, it is requested he state such facts. ✓

PRESIDENT: There appear to be none.

PROSECUTION: The prosecution has \_\_\_\_\_ no \_\_\_\_\_ challenges. ✓

PROSECUTION TO ACCUSED: You now have the right to \_\_\_\_\_ challenge \_\_\_\_\_ any member or members of the court for cause, and any one member, other than the law member, peremptorily. ✓

DEFENSE: The accused has no challenges.

The accused was then asked if he objected to any other member present, to which he replied in the \_\_\_\_\_ negative \_\_\_\_\_.

The members of the court and the personnel of the prosecution were then SWORN.

### ARRAIGNMENT

The accused was then arraigned upon the following charges and specifications:

CHARGE I: Violation of the 63rd Article of War.

SPECIFICATION : In that, Second Lieutenant Jack R. Robinson, Cavalry, Company "C", 758th Tank Battalion, did, at Camp Hood, Texas, on or about 6 July 1944, behave himself with disrespect toward Captain Gerald M. Bear, Corps Military Police, 1848th Unit, Eighth Service Command, Army Service Forces, his superior officer, by contemptuously bowing to him and giving him several sloppy salutes, repeating several times "OK Sir", "OK Sir" or words to that effect, and by acting in an insolent, impertinent and rude manner toward the said Captain Gerald M. Bear.

CHARGE II: Violation of the 64th Article of War.

Specification: In that Second Lieutenant Jack R. Robinson, Cavalry, Company "C", 758th Tank Battalion, having received a lawful command from Captain Gerald M. Bear, Corps Military Police, 1848th Unit, Eighth Service Command, Army Service Forces, his superior officer to remain in a receiving room and be seated on a chair on the far side of the receiving room, did, at Camp Hood, Texas, on or about 6 July 1944, wilfully disobey the same.

/s/ Lawrence F Becnel ✓  
(Signature of accuser (TYPED))

(Name (TYPED))  
Maj. Inf (and) 758 (L) Tk Bn ✓  
(Grade, organization, or arm or service)

**AFFIDAVIT**

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser, this 19th day of July, 19 44, and made oath that he is a person subject to military law and that he personally signed the foregoing charges and specifications, and further that he ~~has personal knowledge of the matters set forth in specifications~~ \_\_\_\_\_  
(Indicate by specification

and charge numbers) ~~rank~~ \*has investigated the matters set forth in specifications ✓

Chg I Spc 1,2, Chg II Spc 1; Chg. III 1,2, and that the same are true  
(Indicate by specification and charge numbers)  
in fact, to the best of his knowledge and belief.

/a/ Henry S. Daugherty ✓  
(Signature (TYPED))

(Name (TYPED))  
Major 5th Armord Gp, SUMMARY COURT ✓  
(Grade and organization)

(Official character, as summary court, notary public, etc.)

1st IND.

Headquarters XXIII Corps, APO 103, Brownwood, Texas, 25 July, 19 44  
(Place) (Date)

Referred for trial to 2nd Lt Milton Gordon, 665th TD Bn,  
(Grade, name, and organization of trial judge advocate)

Trial Judge Advocate of general court-martial appointed by paragraph 6, Special  
Orders No. 120, Headquarters XXIII Corps, APO 103, Brownwood, Texas, 10 June, 19 44.

By command of Major General CRAIG;  
(Grade and name of commanding officer)

/s/ L.K. Olson ✓ ~~Adjutant~~  
/t/ L.K. OLSON 1ST LT, AGD ASST. AG.

The accused then pleaded as follows:

Special pleas and motions: None.

To the Specification of \_\_\_\_\_, Charge I: Not guilty. ✓

To \_\_\_\_\_ Charge I: Not guilty. ✓

To the Specification of Charge II: Not guilty. ✓

To Charge II: Not guilty. ✓

\*Strike out phrase not applicable.

By direction of the court the following matters were read to the court by the trial judge advocate, to wit:

None. ✓

The \_\_\_\_\_ prosecution \_\_\_\_\_ then made no opening statement to the court. ✓

#### TESTIMONY FOR THE PROSECUTION

2ND LT. HOWARD B. CAMPBELL, a witness for the prosecution, was sworn and testified as follows:

#### DIRECT EXAMINATION

Questions by prosecution:

Q. State your full name, grade, organization, and station.

A. Howard B. Campbell, Second Lieutenant, 758th Tank Battalion, Camp Hood, Texas.

Q. Do you know the accused? If so, state his name.

A. I do; Jack R. Robinson.

Q. Is he in the military service of the United States?

A. He is.

Q. What is his grade and organization?

A. Second Lieutenant, Company C, 758th Tank Battalion.

Q - Is the accused present in the court room? If so, point him out.

A - Yes, sir (pointing to the accused).

(There being no further questions, the witness was excused)

CAPTAIN GERALD M. BEAR, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q - State your name, rank, organization, and station.

A - Gerald M. Bear, Captain, Corps Military Police, 1848th Unit, Camp Hood, Texas.

Q - Do you know the accused? If so, state his name.

A - I do; Lt. Jack R. Robinson.

Q - Is the accused present in court? If so, point him out.

A - That is the Lieutenant (pointing to the accused).

Q - Captain, what are your duties?

A - My duties, Assistant Provost Marshall, Camp Hood, Texas.

Q - What do your duties consist of?

A - Investigating officer, and I am also commanding officer of the Military Police Detachment.

Q - How long have you been in that position?

A - Since June 1st.

Q - Of this year?

A - That's right, sir.

Q - I believe you mentioned that you were a member of the 1848th Unit; is that correct?

A - Yes, sir.

Q - Is that the Eighth Service Command forces?

A - Yes, sir.

Q - Were you on duty July 6, 1944?

A - Yes, I was on duty that day.

Q - Where?

A - At Camp Hood, Texas.

Q - Did you have occasion to see the accused on July 6, 1944?

A - I did.

Q - Where?

A - I first saw him in the guard room of the Military Police; the M.P. guard room.

Q - When you first saw him was he alone?

A - No, sir.

Q - Who was present at the time?

A - In the guard room was Captain Wigginton, the Camp Officer of the Day; the Sergeant of the Guard, Sgt. Painter; Corporal Elwood; Corporal Faris; Private Plotkin, and Private Mucklerath.

Q - When you came into the guard room, did you address the accused?

A - Not right away.

Q - Will you tell the court what transpired?

A - Yes, I will; as I came in the guard room, Captain Wigginton, the Officer of the Day, was listening to Private Muckerath relate some incident and Lt. Robinson was interrupting Captain Wigginton. Captain Wigginton said to me, "I am glad you have come, as the Assistant Provost Marshall, I want you to take

charge of this investigation and hear this story".

Q - Did Captain Wigginton address that remark to the accused?

A - I believe he did; he said it for the benefit of all that were present.

PRESIDENT: Give your answers to the court; you are talking to us.

A - Yes, sir, I will.

Q - Continue?

A - So I said to Lt. Robinson, "You go out side of the guard room, and wait out in the receiving room, I will call you when I want you"; Captain Wigginton then started to relate to me what he had heard up to the present time of that incident, and while he was doing this, Lt. Robinson continued to come to this half gate door of the guard room, and resting his hands on it in this way -

Q - May I have that indicated for the record?

A - He leaned on the half gate, down in a slouching position with his elbows resting on the gate, and he kept interrupting so I could not get the conversation from Captain Wigginton; and I said to Lt. Robinson, "You wait outside the guard room, away from the door and I will call you when I am ready for you"; this happened on several occasions when I told him to go away from the door, and as I told him to go away, he bowed in this manner and said, "O.K., Sir, O.K. Sir, O.K., sir".

Q - May I have that described exactly as you have demonstrated it?

A - He stood in this manner and bowed this way -

Q - Bent his trunk forward to a horizontal position,

*nr* forming a 75 degree angle at the ~~center, and~~ <sup>SAME TIME</sup> bringing his <sup>right</sup> hand just above his right eye, hand palm facing toward you, with *nr* fingers outstretched and close together, and <sup>then</sup> slowly bringing *nr* himself to <sup>his</sup> original position; is that right?

A - Thats right and then he kind of smirked or grimaced his face, or grinning like while he was doing that.

Q - How many times did he give you that so-called salute?

A - Each time that I told him, "Lieutenant, go away from that door, I will call you later"; I did not do that only two or three times, but it was several times, and each time I told him to go away, he bowed in that same manner with that same form of salute and would say "O.K., Sir, O.K., Sir, O.K., Sir". in the same facetious like manner.

Q - Continue?

A - Finally, after that went on for sometime, I told Sgt. Painter to place a chair on the far side of the room, and then I said, "Lieutenant, you go over and sit down in that chair on the far side of the room and you remain sitting there until I call you, do you understand that"; and he said "O.K., Sir, O.K., Sir, O.K., Sir".

Q - Was that an order direct to him?

A - Yes, sir, it was a direct order; I ordered him to go over and sit there until I called him.

Q - What transpired after you gave him that order?

A - I made a telephone call to the O.D. of the 761st Tank Battalion -

*nr* Q - Well, any conversation you may have had not in the presence of the accused, do not relate that.

A - The next thing that transpired, I had gone out of the building over to the orderly room to make arrangements to take those statements, to get the legal stenographer there, and I came back by way of the Guard Room; the orderly room is in the M.P. Detachment, the next building over. When I came back I found Lt. Robinson outside of the building talking to the <sup>DRIVER</sup>~~driver~~ of a jeep; this jeep belonged to the O.D. of the 671st Tank Battalion. I said to Lt. Robinson, "Lieutenant, go back in that room and remain in that room, remain sitting, do you understand that"; and he reluctantly went back inside.

Q - Just show us how he did?

A - He walked kind of this way.

Q - With his hands in his pockets, swaying. Lt. Cline, do you have any objection to my description of the way the witness is demonstrating?

DEFENSE: Go ahead.

A - He walked about like this.

Q - Will you describe how you are walking?

A - I would call it ambling along very reluctantly.

Q - Swaying from left to right?

A - Shifting his weight from one foot to the other, and went on inside in that manner. When we got ready for him to make his statement, we brought him into the orderly room, and from the time we started out, I asked him to relate his statement, and everything he said seemed to be facetious to him, and he seemed to be trying to make fun of it.

Q - What was the tone of his voice?

A - He would raise and lower his words, and he would say, "Oh, yeah" when I would ask him a question, and several times

I asked him not to go so fast and to tone his language down, he said, "Well, you want me to tell the truth and nothing but the truth, that's enough isn't it"; and he continued to raise and lower his voice, and continued to act in a contemptuous and disrespectful manner; in fact I had lost control of this Lieutenant.

DEFENSE: We think a little less about what this witness thought or thinks would enlighten the court more; this witness is stating a great many conclusions to the court, and I would ask that the TJA ask for the statements, and not what this witness thought about it. ✓

LAW MEMBER: The conclusions are to be drawn by the court; it is difficult, however, for certain descriptions to be made without some conclusions. In so far as you can, we want statements of facts to aid the court in arriving at the conclusions as to what is or is not contemptuous or disrespectful.

Q - You have mentioned the fact, in what way was he disrespectful, either by speech or ~~manners~~<sup>MANNEERS</sup>; would you describe that to the court?

A - Well, the way he would answer me when I was taking his statement; he was at the desk and I had the legal stenographer there and he would lay his arms over on the desk and say, "Well, all right" or "Well, yeah"; and he did not seem helpful, yet it was his own statement that I was asking him for.

Q - In what way did you lose control of him, Captain; describe that to the court?

A - He seemed to be argumentative, he would ask me questions

and say, well, he would say, "Well, do I have to answer that" and I would say, "No, this is your statement, and all I want is the material facts and circumstances surrounding this incident, and it is your voluntary statement".

Q - How did he talk, did you have occasion to stop him?

A - Yes, I did, he talked very rapidly; he would talk so fast sometimes that this legal stenographer could not take it down; and I said, "Lieutenant, take it slower"; I told him that several times and he continued to go fast. I said to him, "Now, Lieutenant, she can not take this statement that fast, she is not an expert, will you slow up in your speech so she can get it down" and then he started baby talk.

Q - How did he talk?

A - I will tell you how he talked, he said, for example, "I- tell - you - I - went - over"; he was relating an incident. I said, "Lieutenant, there will be no more of this; I want you to slow your speech, but to talk in an ordinary manner and tone.

LAW MEMBER: Let the record show the response of this witness in which he stated the words, "I tell you I went over" was related in an exagerrated slow pause between the words.

Q - Continue your story from there?

A - After we had taken his statement, I arranged for transportation for Lt. Robinson to Temple, and explained that to him, that I had arranged for transportation to take him on back, and he wanted to argue with me, saying that he did not want to go on back, that he did not have to go on back, and said he had a pass until eight o'clock in the morning. I had other things to do, and I told him that we had this arrangement

made and I wanted him to go; and he still continued to argue, saying he had a pass until the next morning and that he had some other things he wanted to do, and continued to argue in this manner, and questioning my authority to send him on in the transportation I had arranged. He said, "I don't see why I have to go with the M.P.'s". I tried to explain to him and he continued to argue and didn't want to go, and then Captain Wigginton interrupted and said, "Lieutenant, I have heard enough of this argument and your conversation, and your manner, and if you do not go, I am going to lock you up for insubordination and disrespect to your superior officers".

Q - Captain, while you were in the orderly room, did you have occasion to see Lieutenant - the medical officer - I don't remember his name?

A - Yes, Lt. Crebari.

Q - When did he come in the orderly room?

A - When we started to take Lt. Robinson's statement.

Q - Who came in with Lt. Crebari?

A - Captain Hamilton.

Q - During the time you had this conversation with the accused, were any civilians present?

A - Yes, Miss Wilson, the legal stenographer.

Q - Any other than her?

A - No.

Q - And you have given the court the names of the military personnel present?

A - That is correct.

CROSS-EXAMINATION

Questions by defense:

Q - Captain, what do you mean when you say you lost control of Lt. Robinson?

m A - During the questioning of him and asking him to give the statement, he gave me such a superior attitude that was entirely unnecessary, and everything I asked him, he would grimace his face and sort of laugh and say, "Well, O.K., that's O.K., Sir" and he did not put any serious thought on the matter; it seemed to him a trivial matter.

Q - In your opinion that was the way he acted?

A - That was the way he acted. ✓

Q - In your opinion?

A - Yes.

Q - You stated that he asked you questions; what were they, what was the nature of those questions?

PROSECUTION: I object to that unless it is in relation to the specifications; we are trying the accused for purely military offenses.

LAW MEMBER: This witness stated on direct examination that the Lieutenant asked him questions during the time he has reference to; the objection is overruled.

Q - You may answer the question, Captain; do you want it read?

A - No, I believe I know the question. That was as we went along getting the statement, he would say, "Well, do I have to relate that" or "Is that necessary"; that is what I meant when I said he would ask me questions.

m Q - Did you consider that improper for an accused to make

such inquiry as that?

A - Yes, I did.

Q - Your answer is that you did consider that improper for the accused to ask such questions?

A - Yes, in the way he did it.

Q - In what way?

A - Well, we were trying to take his statement, and trying to take it in a manner of sequence, and when he would say, "Well, do I have to relate that" or "Is that necessary"; and if it followed in sequence I thought it was necessary.

Q - And you thought it was improper for him to ask you if it was necessary?

A - I would not say that, but the way he asked it.

Q - When he asked you if it was necessary, you thought that was out of order?

A - At certain times, I did.

Q - Did he ask you at any time, "Do I have to answer that question"?

A - I don't know if those were his exact words; he would say, "Do I have to relate that" when what he meant was "Do I have to go on with the facts"; that is, the facts of the story.

Q - And that interrupted the sequence?

A - Yes, sir.

Q - But you did want the whole story?

A - Yes, I did.

Q - How long had you been investigating officer?

A - Since June 1st of this year.

Q - Have you done a good deal since that time?

A - Yes, sir.

Q - Had you done any since that then - or before that time?

A - Yes, sir.

Q - In what capacity had you acted before June 1st?

A - I had done the same work for ten months in the Alexandria Area.

Q - Had you had occasions before to run into witnesses that talked too fast for the stenographer?

A - Yes, I have.

Q - How many times did you ask the Lieutenant to slow down?

A - At least on two occasions.

Q - Do you know what baby talk is, Captain?

A - Yes, I do.

Q - And you considered that example you gave the court baby talk?

*m* A - Yes, when he talked the slow drawl and mentioned each *m* word slowly and use one syllable words, I do.

Q - Captain, was it the next morning when you were arranging to send this officer back to McClosky Hospital?

A - No, it was right at that same time.

Q - In the evening?

A - As soon as he came in, I arranged within an hour or two for transportation.

Q - Did you have occasion to see this officer the next morning?

LT.COL. PERMAN (of the court) I object; the offense charged in this case was on July 6th and now you are speaking of July 7th.

DEFENSE: I am trying to clarify the testimony about the

accused being unruly and unwilling to obey the order to go back to the hospital.

LAW MEMBER: The question directed to that is proper.

A - Right at that time it was in the early morning hours of July 7th.

Q - It was after mid-night before this was over?

A - Yes, sir.

Q - Before this matter closed, that evening, did you have occasion to talk to this man's commanding officer?

A - Yes, sir, I did.

Q - Did the accused return to McClosky Hospital that morning?

A - Yes, sir, he did.

Q - Did he go under guard?

LT.COL. PERMAN: I object to that, it was not brought out in the direct examination.

DEFENSE: May I make one statement; the record of the testimony will show that that the accused was arguing and wrangling about whether he had to go back to the hospital that night; now, I can restate my question -

LT.COL.PERMAN: There was nothing mentioned on direct about the accused going to a hospital; he was to go some place, but nothing was said about a hospital.

Q - Let me ask you in another way, Captain, what was the nature - stating if you can the exact objection this accused had - what was the nature of his objection in regard to his leaving the investigation you were conducting?

A - Well, he stated that he had a pass until eight o'clock

in the morning and that he had other things to do and he did not want to go back then.

Q - Do you recall what questions if any he asked you at that time, when he objected specifically to going?

A - Well, sir, he asked if I denied him the privilege of talking to his Commanding Officer, and I said "no"; and he said that in such a manner, he said, "Then you are not going to let me talk to him"; that was his attitude about everything I said, in that attitude that I was not trying to help him out, whereas, I was trying to help him out.

Q - Do you recall, Captain, if he asked you whether he was under arrest at that time?

A- Yes, I do recall.

Q - Did you give him an answer, Captain?

A - Yes, I gave him an answer, with an explanation at the same time.

Q - What was your answer?

A - I told him that he could consider that he was going, that we had arranged for transportation and he was going.

Q - Excuse me, sir; would you just answer my question; what was your answer to him, to his question?

A - I mentioned that I gave him an answer with explanation.

Q - I did not want the answer too long, but what did you say?

A - I said, "We have arranged the transportation, and you are to go on back over there, and we will consider that you will be in arrest in quarters and taken over there".

Q - How many times did he ask you if he was under arrest before you gave him that answer?

A - I believe he asked me a couple of times; two times,

I believe.

PROSECUTION: I object to this line of cross-examination on the ground that it is immaterial to the issue here.

DEFENSE: If the court please, before I continue further, if the Trial Judge Advocate does not object, I will go back and ask some questions concerning the events in the guard room.

Q - Going back, Captain, I believe you testified that you requested the accused to go back to the anti-room or receiving room of the guard room?

A - Do you mean while on the outside of the building?

Q - Maybe we should go over that scene again; where was he when you first came in to the guard room?

A - He was on the inside of the guard room.

Q - And you requested him to go to the outside, or to the ~~outer~~ <sup>OUTER</sup> room?

A - Yes, and to remain there until I called him.

Q - I would like to show you a statement purported to have been made by you and ask if you recall making that statement?

A - Yes, that is my statement.

Q - In this particular statement, certified as a true copy, which I have in my hand, you stated, I believe -

LT.COL. PERMAN: I object; I would like to determine the purpose of the introduction of the statement? It was not brought out on direct, and I would like to inquire of the purpose, since the witness has not proven hostile to questions by the Defense or by the Trial Judge Advocate.

DEFENSE: Sir, I would like to show the court the language the witness used in his direct testimony is not the same as appears in the statement.

LAW MEMBER: Your purpose is to establish a contrary statement to the testimony given on direct examination?

DEFENSE: Yes, sir.

LAW MEMBER: Then you should ask the witness if he made such and such a statement.

Q - Let me ask you, Captain, did you or not state in writing, "I cautioned and requested Lt. Robinson on several occasions to remain at ease and remain in the receiving room and I would talk to him later"; did you or did you not make that statement? *me*

A - I made that statement.

Q - While the stenographer was taking Lt. Robinson's statement, Captain, did anything occur that brought her to anger or caused her to leave the room, that you recall?

A - No, I do not recall her leaving the room; she took the statement in its entirety.

Q - After the statement was completed, she typed the statement, did she not?

A - Yes.

Q - Do you recall the stenographer leaving the room in more or less of a huff, because the accused pointed out several inconsistencies in the statement?

A - No, I do not recall that.

Q - Do you recall her leaving before the business at hand was completed?

*me* A - No, she typed the statement in the ~~outer~~ <sup>OUTER</sup> room.

Q - Do you recall whether the accused signed that statement that she had typed?

A - Yes, I do.

Q - Without correction?

A - No, he made some correction; I believe he drew a line and initialed and initialed the correction.

Q - Do you recall having words with the accused, or reprimanding him, for not signing that statement as it came back from her typewriter?

A - No, sir, I do not, except that he wanted it corrected and I told her what he wanted corrected and told her to cross it out, or told him to cross it out and initial it.

Q - Was there anything at that time occurred, after the statement had been typed, that made you angry and caused you to reprimand the accused?

LT.COL.PERMAN: I object, since all this transpired after the incident covered by the specifications and was not brought out on direct examination, it is not proper cross-examination; the defense can introduce the witness as a defense witness at a later time.

LAW MEMBER: What time do you have reference to in your questions?

DEFENSE: At the end of this incident, sir, before it was closed up; the statement was taken and I am attempting to bring out whether or not there was an atmosphere there, the background of this whole case should be before this court, and I do not understand that I am limited to what was brought out on direct examination.

LAW MEMBER: You are not entirely, but the time your

your question was directed to with reference to this interpretation you make would control; you may inquire what action this witness took by way of admonition to the accused in connection with the accused's conduct towards him; is that what you have in mind?

DEFENSE: Yes, sir.

LAW MEMBER: The witness may answer.

DEFENSE: Is it proper on cross-examination to interrogate the witness as to his bias and prejudice? That is the purpose of my examination at this time.

PROSECUTION: No bias or prejudice has been shown.

LAW MEMBER: Let the witness answer the question.

A - I do not recall reprimanding him about his statement, or talking to him about it at all after it had been typed.

#### RE DIRECT EXAMINATION

Questions by prosecution:

Q - You were asked a question by Lt. Johnson on cross-examination if you had made a statement to the effect that you stated to the accused to remain at ease and remain in the receiving room and you would talk to him later; you answered him that you did make that statement; is that correct?

A - Yes, in the statement I signed.

Q - Will you explain what you meant and what was done subsequent there to? What was that in connection with?

A - They asked me to give a kind of brief and concise statement, without too much detail, and without relating specific conversation; so, in accordance with that request, I drew up as

short and compact statement as I could on the matter.

Q - Will you tell the court what was your direct order to the accused in connection to his remaining outside in the receiving room; your exact words?

A - I said, "Go out and remain at ease"; About three times I told him that.

Q - Repeat the order again, please?

A - I said, "You go out and remain at ease and when we get ready, we will call you"; and then I said, "You take a seat in the far side of the room and remain seated until I call for you"; that was after he would not pay attention to what I had told him.

Q - Did you ask him if he understood your order?

A - Yes, each time, and he would say "O.K., Sir".

#### RE CROSS-EXAMINATION

Questions by defense:

Q - Captain, the purpose of that direction was to get the accused beyond your hearing, was it not?

A - The purpose was to stop him from interrupting until Captain Wigginton could relate the matters to me, as he had heard them up to that moment.

Q - As a matter of fact, you wanted him beyond your hearing?

A - Well, yes, we wanted him away for he was interrupting when I first came in.

Q - How long after that was it before he was called in; how much time had elapsed?

A - Until such time as he was called to the orderly room?

Q - That is correct, sir?

A - Well, it was not very long; Captain Wigginton told me the statements very briefly that he had taken, and we got the O.D. of the 761st -

Q - What do you mean by "not so very long"?

A - Well, I don't recall exactly how much time had elapsed, and I mean that it was not very long.

Q - Was it an hour?

A - No, it was not an hour.

Q - Half hour?

A - No, I would judge it was a matter of fifteen or twenty minutes; not very long.

#### EXAMINATION BY THE COURT

Questions by Captain Moore:

Q - With reference to that transportation, how compulsory was it that he use the transportation you stated you had provided?

A - Well, we had arranged this transportation, and at that hour of the morning the busses were not running on regular schedule.

Questions by Captain Spencer:

Q - Was it necessary for him to take the transportation you had provided?

A - I don't believe any other was available and we wanted him to go then.

Questions by Captain Carr:

Q - Was he under arrest?

A - Yes, sir.

Q - When was he under arrest and what did you say to him?

A - I finally told him, "You can consider yourself under arrest", or "in arrest".

Q - When did you make that statement to him?

A - At the time we decided to place him in arrest.

Q - You wanted to make sure to send him where you wanted him to go, so you arrested him?

A - Yes, we call it in arrest in quarters.

Questions by Major Mowder:

Q - Did you say you used your transportation because no busses were available?

A - There were no busses running at that hour and I had called some other places and they told me it would be an hour and a half before they could get a driver, and so the arrangement was made that we would take him over.

Q - If busses had been available, would you have let him go back by himself?

A - No, sir, Major, I would not.

Q - I wish you would state definitely whether you did order him back, or did you just think this was the best type of transportation he should have?

A - No, sir; I ordered him to go back.

DEFENSE: I would like to ask this through the court: What was the transportation and who, if anyone, went with the accused?

PROSECUTION: I think that is immaterial.

LAW MEMBER: Do you want the court to adopt your question?

DEFENSE: I am not familiar with whether or not it should be asked through the court; I would prefer to ask him direct.

Questions by Captain Carr:

Q - Did you say the accused was in the inner room of the

guard house and you told him to remain at ease?.

A - He was at the gate, or half door.

Q - While he was at the gate, was that when you told him to be at ease?

A - Yes, sir.

Q - When he was in a position like this, would you consider that at ease?

A - He was doing that and interrupting me, and I told him to be at ease.

Q - I want the question answered; was he at ease while he was leaning on the gate in this manner, or whatever manner you have described; was he at ease then?

A - If he was not talking and interrupting, he would be; well, not at ease, either. ✓

Q - My point is: I do not see that the manner in which he leaned on the gate had anything to do with you, if you had not given him an order commanding him at attention, even if it was a sloppy position, if you had not told him to remain at attention?

A - I told him "at ease and to remain quiet".

Q - I am talking now of the sloppy manner; that part of the charges?

A - I did not call him to attention, Captain.

Q - But you have given the court an example of the sloppy manner in which he leaned on the gate?

A - Yes, and he interrupted while leaning on the gate and when he was ordered to get away, he grimaced and saluted in the manner I have described.

#### RE CROSS-EXAMINATION

Questions by defense:

Q - Captain, will you state for the record what form of transportation you sent the Lieutenant back in, and who, if anyone, you sent with him?

PROSECUTION: I object to that as irrelevant to the case.

LAW MEMBER: The form of transportation is not material to any charge here.

DEFENSE: It is material as to whether this man was under arrest; and I want to say to the court, there is more in this case than meets the eye in reading the specifications -

PROSECUTION: I object to the speech by the defense counsel.

LAW MEMBER: Your question with reference to the mode of transportation and the person attending the transportation can be answered by the witness.

A - It was a pick-up truck.

Q - Excuse me, but will you please speak louder?

A - It was a pick-up truck, radio patrol car.

DEFENSE: By your ruling, do you mean that I can not ask who went with the accused?

LAW MEMBER: You may ask who went with this officer back to McClosky Hospital.

PROSECUTION: I object to that because it has nothing to do with this case.

LAW MEMBER: The objection is overruled.

A - The M.P.'s went with him.

Q - How many, Captain?

A - I can not recall, but I think it was two or three.

Q - Two or three?

A - I would say so.

Q - In a regular M.P. truck?

A - Yes.

RE EXAMINATION BY THE COURT

Questions by Lt.Col. Perman:

Q - Was the sole purpose of using the transportation you have mentioned in the furtherance of some duty on the part of the Provost Marshall's office to see that Lt. Robinson was returned to his destination?

A - Yes, sir, it was.

Questions by Captain Campbell:

Q - I have a question that I would like to ask the Captain; a few minutes ago you stated that when Lt. Robinson was on the outside, and you told him to go back inside of the guard house, and that was when he went back in, as you demonstrated in a sort of rolling walk?

A - Yes, sir.

Q - I was wondering if the court has ever seen Lt. Robinson walking, and if not, if it would be possible to have him walk normally up and down the court room and let the court observe his walk?

LAW MEMBER: The defense can present that, however, if it is desired by the court and is the desire of the accused, he may do so; that is subject to the same limitations as his testimony; it must be at his request. In any event, we should proceed with the examination of this witness.

RE CROSS EXAMINATION

Questions by defense:

Q - Captain, you sent the M.P.'s with this man, with the direct instructions to them that he was under arrest, did you not?

A - Not specifically under arrest; we call it "in arrest in quarters"; but I wanted him to go to his destination.

Q - And you sent those M.P.'s to take him there?

A - Yes, sir.

RE EXAMINATION BY THE COURT

Questions by Captain Carr:

Q - Do you know the difference between confinement and in arrest in quarters?

A - Yes, I do. ✓

Q - In arrest in quarters can carry no bodily restrictions?

A - I considered him in arrest in quarters.

Q - In arrest in quarters, yet you admit that you sent three M.P.'s to see that he got back to where you decided to send him?

A - Yes, I did.

DEFENSE: Captain, is it true the Hospital called you the next day and asked if Lt. Robinson was supposed to be in arrest in quarters, and you answered "no"?

PROSECUTION: I object to that as immaterial.

LAW MEMBER: The objection is sustained; that would be something transpiring after the offense is alleged.

(There being no further questions, the witness was excused.)

CAPTAIN PEELOR L. WIGGINTON, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q - State your name, rank, organization, and station.

A - Peelor L. Wigginton, Captain, Quartermaster Corps, Laundry Officer for the Camp, Camp Hood, Texas.

Q - Do you know the accused? If so, state his name.

A - I know him by sight and know his name.

Q - What is his name?

A - Lt. Robinson.

Q - Is he present in the court room?

A - Yes, sir (Pointing to the accused).

Q - What were your duties on July 6, 1944?

A - I was Camp Officer of the Day..

Q - Did you have occasion to see the accused on July 6 th?

A - Yes, sir. ✓

Q - Where and under what circumstances?

A - At the Military Police guard room, South Camp Hood.

Q - Who was present?

A - Lt. Robinson, Captain Baer, Private Mucklerath, and three or four members of the Military Police.

Q - Were you present when Captain Baer was questioning the accused?

A - Yes, sir.

Q - Can you tell the court what transpired in your own words?

A - When I was called in, or when Captain Baer came in?

Q - When Captain Baer came into the guard room, start from there?

A - As Camp Officer of the day, I called on Captain Baer to come to the M.P. Guard room, and when he came in the room, I was making an attempt to relate something of the incident

that had occurred that evening and Lt. Robinson continued to interrupt us and I asked him to remain in an outside room until I had discussed this incident. During the conversation, Lt. Robinson kept coming up to the swinging door or half door that divided the two rooms; he would come up to that door and interrupt us. So, I had turned the situation over to Captain *ma* Baer and he told the Lieutenant to remain in the ~~outer~~ <sup>OUTER</sup> room until we finished the discussion and we would call him when he was ready for him. Lt. Robinson kept coming to this gate and leaning over on it and saying something and interrupting me so that I could not continue, and Captain Baer gave him a direct *me* order to go and sit down in the ~~outer~~ <sup>OUTER</sup> room, and the Lieutenant seemed to think it was quite funny and he bowed and said "O.K., Sir, O.K., Sir" repeated it several times and went back and I suppose sat down, but I did not see him sit down. Later Captain Baer made arrangements to take some statements, and at that time the Lieutenant was outside, pitching rocks and talking the driver of his Battalion's jeep. Later, we moved into another room to take the statements and during this questioning, Lt. Robinson, in my opinion, was very disrespectful and seemed to think it was a joke, and many questions asked him, he answered Captain Baer in a disrespectful manner, for example, he was talking very rapidly and the legal stenographer was not able to take down the testimony and Captain Baer asked him to slow down and not talk so fast, so the stenographer could take it down, and then mockingly started out slowly, with a pause between his words of several minutes - no, seconds, not minutes, but seconds ~~elapsing~~ between each word. Then after his statement

was taken, he spent some twenty or thirty minutes arguing with Captain Baer about going back, and the Lieutenant didn't want to do this or that and I was the first to tell him that I would place him under arrest for insubordination, in fact I told him this, "Lieutenant, if this continues, I am going to place you in arrest in the Stockade". Captain Baer had asked him to return to McClosky Hospital, which he did not want to do. I did not think he acted at all like an officer should to -

DEFENSE: I object to the conclusion of the witness.

LAW MEMBER: Lets skip the opinion, rather give your observations of the act and conduct of the accused and it will be for the court to determine.

A - Well, during the time he was being questioned by Captain Baer, instead of sitting in an upright manner, he would lean over on the desk in this manner and in a rapid speech -

LAW MEMBER: You are now leaning on the desk next to your chair, with your elbows on the desk, with your right hand at the top of your head, is that right?

A - Yes, sir. And in coming back from outside the guard room, after Captain Baer ordered him back to the guard room, he walked like this -

LAW MEMBER: You are now on your feet, with your hand in your pocket?

A - Yes, sir.

*me* Q - You take a few steps ~~in~~ in front of the court; can you describe what you are doing?

A - The impression I am trying to convey is the idea or

my impression of the way he returned after he was told to return to the guard room, which was in this manner

LAW MEMBER: You are now taking steps and swaying from side to side, with your hands in your pockets?

A - Yes, sir; that is correct, that is the manner in which he went swaying back to the guard room.

Q - Captain, can you tell the court the order that was given to the accused by Captain Baer, and what, if anything, happened after the issuance of that order?

A - Yes, sir, Captain Baer said, "Lieutenant, you go to the <sup>OUTER</sup> ~~OUTER~~ room and remain in that chair until you are called; do you understand that"; then later the Lieutenant was outside the building; I saw him out there tilting rocks in the air on the outside of the guard room, near this jeep, which I think belonged to the O.D. of some battalion.

#### CROSS-EXAMINATION

Questions by defense:

Q - Captain, can you tell us why it was that everybody's story in connection with that case was taken in that investigation before the accused's story was taken?

LT.COL. PERMAN: I object; I don't think this witness could tell what the investigator had in mind.

LAW MEMBER: It is not a matter shown to be within the personal knowledge of the witness; the objection is sustained.

DEFENSE: I thought he started the investigation and took the other statements and in turn related to Captain Baer what

the other testimony was.

**LAW MEMBER:** To the extent this witness might know the order in which he might have interviewed persons, he may state.

Q - In connection with your investigation of this case, or if you know of Captain Bear's investigation in your presence, do you know why the testimony was taken of all other witnesses before the accused was requested to give his statement?

A - No, sir.

Q - Do you suppose that might have had something to do with his comments and -

**PROSECUTION:** I object to that as improper cross-examination.

**LAW MEMBER:** The objection is sustained.

Q - Captain, is it true that you told the Major Daughtry that you did not see the accused make any of these motions?

A - No, sir.

Q - That is not true?

A - No, sir; you mean that I saw him make no motions?

Q - That you saw him make no salutes or bows?

A - I did not see him make any salutes at that time, I do not call that saluting; I was trying to demonstrate what he did.

Q - And you did see him leaning on the desk?

A - Yes.

Q - And walk with his hands in his pockets?

A - Yes.

Q - And you also saw him stoop, as you told the court; was that in the guard house?

A - The guard room where the M.P.'s forces are located.

Q - That was the time he was told to leave the room?

A - That is true.

Q - And you saw him outside throwing stones after that?

A - That was after he was told to remain in the ~~outer~~ <sup>OUTER</sup> *MR* room that I saw him out in the yard.

Q - Captain, is it true that the purpose in asking the accused to leave the room was so that Captain Baer could find out what had happened in the case you were investigating?

LT.COL. PERMAN: I object, this witness is not competent to know what Captain Baer wanted.

DEFENSE: In all my questions I assume the witness will only answer if he knows.

LAW MEMBER: If the witness has any knowledge, he may answer.

Q - If you don't know the answer, Captain, say so; but do you know if that was the purpose?

A - I don't know Captain Baer's purpose, but I had been conducting the investigation, and I was turning it over to him and the Lieutenant kept interrupting and would not let me tell Captain Baer what had been related to me up to the time he was taking over.

Q - Do you recall how many times the accused was asked to slow down his testimony when he was giving his statement, so the legal stenographer could take it? Was it more than once?

A - Not to my knowledge; I recall just the one time.

Q - Did you, at anytime, place the accused under arrest?

A - No, sir.

Q - In your presence or hearing, did Captain Baer ever place him under arrest?

A - No, sir.

Q - At any time during the investigation, was the accused told to sit at attention or to stand at attention?

A - No, the only time he was told to sit in a chair the word "attention" was not used.

Q - Captain, were you present when the stenographer left the room?

A - I believe she left the room two or three times.

Q - I refer, of course, to the last time she left the room, were you present when she left after completing the typing of Lt. Robinson's statement?

A - Do you mean when everyone left; I was about the first to leave, as I had other duties; but she left the room two or three times during the evening.

Q - Did she leave the room, Captain, to make her final exit before you did?

A - No, I left before she left to go home; if that is what you mean.

Q - Were you there when she typed Lt. Robinson's statement?

A - Yes.

Q - Do you recall Captain Baer becoming angry, and the stenographer becoming angry because Lt. Robinson asked the statement be corrected?

PROSECUTION: I object to that question; the witness can tell what he heard.

LAW MEMBER: The witness is on cross-examination, however,

the objection is good to the question asking for a conclusion. You may restate the question.

Q - Did you see the stenographer become angry during the evening while taking down the statement?

A - Well, I don't know, the word "angry" - no, I did not see the stenographer become what I would term angry, I thought she became impatient, but anger has a different meaning; I would say that she did become impatient.

Q - Let me clear it up; were you present when she brought the statement back after having typed it?

A - Yes.

Q - In your opinion did she become angry when the accused asked for certain corrections to be made? Did she get very excited and refuse to make the corrections?

A - No, sir.

Q - Is it true that she picked up her purse and walked out and left the statement without making the corrections? If you remember?

A - I do not remember that; there was some discussion, but I do not think it was about corrections in the statement; but she became impatient with Lt. Robinson over something that he stated or asked.

Q - Do you remember that Captain Baer became angry?

A - No.

Q - Do you recall if you became angry?

A - I don't think so at that time, I became angry later on, but not during the taking of his statement.

Q - In what connection did you become angry?

A - The discussion and argument between Lt. Robinson and

Captain Baer at the time Lt. Robinson did not want to return as Captain Baer had directed him to do.

Q - Did you hear the accused ask Captain Baer whether he was under arrest?

A - Yes.

Q - Do you recall if he was ever given an answer?

A - No.

Q - Do you say that he would not give the accused an answer?

A - No, sir.

Q - What did Captain Baer answer?

PROSECUTION: I object to that as immaterial and improper cross examination.

LAW MEMBER: This witness has testified on direct examination that to his knowledge the accused was not in arrest, and for that reason, the matter was not brought out on direct; the objection is sustained.

Q - Captain Wigginton, in regard to this incident, the words that passed between Miss Wilson, the legal stenographer, and Lt. Robinson, that you testified about a moment ago, you got pretty incensed over that conversation, didn't you?

LAW MEMBER: Miss Wilson has not been identified here before; is it correct that she is the legal stenographer referred to?

DEFENSE: That is my understanding, but I would have to confirm that.

Q - Captain, you became incensed over the conversation between the legal stenographer and the accused, didn't you?

A - No, sir; I really don't remember the conversation.

Q - As a matter of fact did you and she step outside and

discuss the matter beyond the hearing of the accused?

A - No, sir.

LAW MEMBER: If there was any discussion outside and not in the presence of the accused and not concerning this incident, it is not material to the specifications here and I do not see the purpose of the cross-examination.

DEFENSE: I am trying to determine the bias and prejudice of the witnesses on this basis.

PROSECUTION: I object to bringing any foreign matter into this case on any such basis.

LAW MEMBER: What transpired as between this witness and the legal stenographer and in the absence of the accused, is not material and is not proper cross examination.

DEFENSE: Very well, I withdraw the question. ✓

#### RE DIRECT EXAMINATION

Questions by prosecution:

Q - On direct examination you demonstrated to the court how the accused acted, the manner in which he bowed or walked, and on cross-examination you told the defense counsel that he did not give any salute, will you describe to the court what *me* the accused was doing when he was bowing and <sup>WHAT</sup> ~~how~~ he did with his right hand; will you demonstrate that action by the accused?

A - The reason I answered that it was not a salute was because it was not a salute; he would lean over the gate in this manner and do this with his hand; that is not a salute at all in my opinion.

EXAMINATION BY THE COURT

Questions by Captain Carr:

Q - Captain, you were relating to Captain Baer about some incident that had been related to you?

A - Yes, sir.

Q - Did you have any personal knowledge of the incident yourself?

A- No, sir.

Q - Why did you object to the accused making corrections to the hearsay matters you were relating to the investigating officer?

A - When I came in the guard room, I asked for Lt. Robinson's version of the incident first, and many others, and when I called Captain Baer, I wanted him to try and clear up the case, and naturally I wanted him to know why I had called him and I was telling him the stories that had been told to me.

Q - In other words, you were telling him what Lt. Robinson had said and what others had said to make the story?

A - Yes, that was for the purpose of letting him determine whether to take statements or not; in other words, I was turning the case over to him.

(There being no further questions, the witness was excused).

PROSECUTION: The prosecution rests. ✓

DEFENSE: The accused has been apprised of his rights with reference to becoming a witness and he elects to become a sworn witness.

LAW MEMBER: With the permission of the court I will advise him further. Lt. Robinson, as the accused in this case, you can not become a witness and testify unless you request to do so yourself. You can not be required to testify or to say anything. If you desire to become a sworn witness, you can do so at your own request, and if you do, you will be subject to cross examination by the Trial Judge Advocate and to questioning by members of the court in the same manner as any other witness. Now, in the event you do not desire to become a sworn witness, you may make a statement to the court without taking an oath; in that event you would not be subject to cross-examination, either by the prosecution or by members of the court; but you would only say whatever you wanted to say and when you finish you would return to your seat. However, an unsworn statement is not evidence in the same sense as sworn testimony is, but the court can give it such consideration as they feel it is entitled to receive, and to the extent they see fit to consider it. In testifying under oath or making an unsworn statement should you make any admissions, the court can consider them against you. Now, you do not have to either testify under oath or make an unsworn statement; you can remain silent and make no statement at all. In that case the court will attach no significance whatever to your remaining silent with reference to whether you are guilty or innocent. Do you understand what your rights are?

ACCUSED: Yes, sir.

LAW MEMBER: And do you still desire to become a sworn witness?

ACCUSED: Yes, sir.

2ND LT. JACK R. ROBINSON, a witness for his defense, was sworn and testified as follows:

TJA: State your name, rank, organization, and station.

A - Jack R. Robinson, Second Lieutenant, Cavalry, Company C, 758th Tank Battalion, Camp Hood, Texas.

TJA: Are you the accused in this case?

A - Yes, sir.

#### DIRECT EXAMINATION

Questions by defense:

Q - In responding to questions, I wish you would speak out so every member of the court can hear you. How old are you?

A - Twenty-five years old.

Q - Where is your home?

A - Pasadena, California.

Q - How long have you been in the Army?

A - Since April 3, 1942.

Q - Now, you have heard what the various witnesses appearing against you have had to say; I want you to relate in your own words what transpired there at the Guard room or Provost Marshall's office on the night you were taken there?

A - Just at the Guard room?

Q - That's right; what transpired there?

A - I was brought in there by one of the M.P.'s; he suggested that we go see the Provost Marshall on some matters. I agreed to go with him, for I had no reason to object. I got there and it took some time before they found any officer to question me.

Q - Direct your remarks to the court and go a little

slower so the court can understand you.

A - We waited there some little while before they found any officers; and I believe the first officer was Captain Wigginton and he asked me some questions, first he wanted to know what happened at the bus station and I told him; well, we got together between Private Mucklerath and myself, Mucklerath gave his statement and I gave mine and there was not much that came between Captain Wigginton and myself. Mucklerath explained the situation as he understood it and I told my story. Captain Wigginton said I was interrupting him, but to my mind it was not interrupting him at all; Private Mucklerath stated something that I did not think was quite right and I interrupted him to see if I could refresh his memory and get him to correct his statement. Now, they say that I did interrupt them, the officers, but I don't believe I did. Captain Wigginton said he was Camp O.D. and that he would get Captain Baer down there if possible, and for me to wait out side until Captain Baer came -

Q - Talk a little slower, Lieutenant, the court wants to understand you and the reporter is taking your testimony.

A - Well, I stayed outside of the room and waited for Captain Baer to come, and I was outside when he came and I started to follow him through the guard room or into the guard room, and he turned around and wanted to know why I was following him in there. I told him that I had been there and had been told to come in when he came; and he said, "Nobody comes in the room until I tell him" and he looked and saw Mucklerath in there and I inquired what he was doing in there and Captain Baer said he was a witness. Captain Baer sat down

and Captain Wigginton started to tell him the story, and he started in with the story that Private Mucklerath had told him that I had said if I ever saw him again I would break him in two, and I told them that what I had actually said was that if he ever called me a nigger again I would break him in two; that I was in the M.P. truck and Private Mucklerath came up and said, "Did you get that nigger lieutenant" and that was when I made that remark -

Q - Let me interrupt you, Lieutenant - do you know what a nigger is?

A - I looked it up once, but my Grandmother gave me a good definition, she was a slave, and she said the definition of the word was a low, uncouth person, and pertains to no one in particular; but I don't consider that I am low and uncouth. I looked it up in the dictionary afterwards and it says the word nigger pertains to the negroid or negro, but it is also a machine used in a saw mill for pushing logs into the saws. I objected to being called a nigger by this private or by anybody else. When I made this statement that I did not like to be called nigger, I told the Captain, I said, "If you call me a nigger, I might have to say the same thing to you, I don't mean to incriminate anybody, but I just don't like it". I do not consider myself a nigger at all, I am a negro, but not a nigger. Captain Baer said that I was insolent, and -

Q - Now, wait a minute, I just want you to relate exactly what did transpire on that occasion; you heard what Captain Baer said, that you leaned on the door and saluted him in a sloppy manner?

A - Yes, sir, but I do not recall that and Captain Wigginton did not recall it, that I was bowing and saluting like that when Major Daugherty was asking him about it and I asked the Major to put that down; he stated that I did not make any kind of salute and I asked the Major to put that in his statement, and he read it back as he had written it, and that was sent in, but we do not see it; so, I asked the Lieutenant to subpoena Major Daugherty, because the Major asked Captain Wigginton if he saw me bow from the waist and come up and give such a salute, and Captain Wigginton told him that he did not see me do any of those things, and I don't know why he has now changed his story. If we could get the notes that Major Daugherty had, they would show what he said about bowing and saluting. I certainly do not recall saluting Captain Baer or leaning on the door as he described; while I was right at the door, I did not lean. Captain Wigginton was relating the incident to Captain Baer, and Captain Baer had an idea that what happened was at Killeen, and he wanted to know where it happened -

Q - Just a minute, now, I want to direct your attention to the order that has been referred to; how was the directive given to you at that time with reference to going into the other room?

A - I was already in the room at the time I interrupted, and Captain Baer told me to get away from the door and said he would call me; but he never did give me any order to sit in a chair; all he did was to tell me to get away from the door, and I stepped outside.

Q - How long did you remain outside?

A - I believe it took Captain Baer twenty or thirty minutes to finish his conversation with Captain Wigginton in that room, for I was outside there tossing rocks some twenty or thirty minutes, and Captain Baer and Captain Wigginton came out and passed by me and went to the mess hall and they were in there for about fifteen minutes, and in the mean time this 761st Tank Battalion soldier came up and asked - he asked what the trouble was, and wanted to know where Captain Baer was; and I told him that he was in the mess hall. So he stayed in the mess hall some fifteen minutes and when he came back, I was talking to the driver of that jeep; I happened to know the soldier, he was driver for Lt. Lightfoot.

Q - When Captains Wigginton and Baer came out of the Provost Marshall's office and went to the mess hall, did they say anything to you?

A - No, sir, they never said a word.

Q - Did they say anything when they came back?

A - Captain Baer told me that he had ordered me to stay inside the room; he said, "You get back in that room" and I went back inside.

Q - Did you go in the room he told you to go in?

A - Yes, sir, and if I stuck my hands in my pockets I don't recall doing it; I don't believe I did. Captain Wigginton said that I did. Lt. Lightfoot was standing there and if I had known this was coming up, I would have had him here or asked him about it, but before this nothing had come up about

it in the investigation.

Q - All right, now, this interruption that you mentioned; what was the purpose of your making that interruption?

A - My only purpose was to clarify Captain Baer's mind as to where it happened; I didn't know anything was coming up of the matter.

Q- Did you intend at that time to be impudent?

A - No, sir, I did not intend to be impudent in any way at all; all that I wanted was for Captain Baer to get a true story of where I was and when I heard what I knew was not true, that was when I interrupted and he jumped up and said, "You get away from that door" and then said he would call me when he wanted me, and that was when I went outside and was waiting for him to get ready for me. ✓

Q - Do you remember how many times you interrupted him?

A - One time exactly, and when he ordered me away from the door, I went outside.

Q - Did you construe that directive to mean - just how did you construe that directive when he told you to get away from the door?

A - I figured he meant for me to get away so I would not interrupt him; and I figured that if I heard the statement or any other that was not correct, I would interrupt again, and that was why I did go outside to wait for him to call me.

Q - During all of this time were your relations with those officers pleasant?

A - No, sir; when Captain Baer first walked in the office, for no reason at all I was told to come back in when Captain

Baer came, and I started to walk in and he was not polite at all; that is simply my opinion. When he called me back in the office at the time he was taking my statement, in his questions, he was, in my opinion, very uncivil toward me; and he did not seem to recognize me as an officer at all; but I did consider myself an officer and felt that I should be addressed as one; and they asked that private to sit down -

Q - Well, just a minute, when he directed you to get away from the door, did you protest that directive in anyway?

A - No, I did not.

Q - Did you get out as he directed you to do?

A - Yes, sir, I did.

Q - All right, now, what happened when you were summoned back into their presence?

A - I was not summoned back in until they went back to the orderly room to take my statement; and while I was giving my statement, I don't know, I might have been talking fast, but I thought I slowed down when he told me to, and he told me again to talk slow, and I believe he did that three times; and when he did that the third time I did slow down to where I knew the stenographer would be sure and get it; but when he then told me to go ahead and speak up, I did.

Q - Did you slow down to the gross exaggeration as has been demonstrated here?

A - No, I did not.

Q - During the time you were giving your statement to the stenographer, was there any incident that happened there that created a bad feeling or an unpleasant atmosphere between the

parties present there?

A - Not until she had typed the statement; everything went smoothly until she had typed the statement. Captain Baer, in some way had asked me if he had seen me some place before; I don't know just how he put it, but he asked me if I had played foot ball, and I told him, I thought it was off the record; and he asked me where I played foot Ball, and I told him in California; he asked if I had played in the East and I told him I had played in Chicago; and all of that was in the record and I did not see why that should belong in the record, and I crossed it off, and there was some statement to the effect, "I don't know whether he was or not" that did not sound right and I crossed that off; and the Secretary said, "If you had completed your statement it would have made sense" and I told her that if she had put down Captain Baer's question, it would have made sense; and she then picked up her purse and said, "I don't have to make excuses to him" and she went out, and Captain Baer went outside to her and talked awhile and came back. After I had finished with the statement, he stated about his arrangement for me to go back and I asked him if I was in arrest, and I told him if I was not, I had a pass and that I could get back on the bus the next morning. I also asked permission to talk to Major Wingo; but Captain Baer thought it best that I go back.

Q - Who is Major Wingo?

A - He is the executive officer of the Battalion and he was acting commander in the absence of the Colonel. I explained

x to Major Wingo and he said the reason Captain Baer wanted me to go back was that he figured I would get in trouble with the busses, and I told him that I would not, that I abided by the Texas Law, but that I knew there was no Jim Crow rule on the Post and the bus driver had tried to make me move to the rear, and I told him that I would not move back.

Q - Just where were you sitting at that time with reference to the front and rear of the bus?

A - I imagine about four seats from the rear, I believe it was, and I imagine it was a little better than half way.

PROSECUTION: I object to this line of testimony, for it has nothing to do with this specification; what happened on the bus, or this testimony about what happened has no place in this case. ✓

LAW MEMBER: I do not see the materiality of it; the objection is sustained.

#### CROSS-EXAMINATION

Questions by prosecution:

Q - When you came to the orderly room, what time was it?

A - Approximately 2245 hours.

Q - Was Private Mucklerath with you?

A - He was in the rear of the truck.

Q - When you arrived at the orderly room at that time, who was present in the room?

A - I believe it was the Sergeant of the Guard.

Q - Sgt. Painter?.

A - I did not know his name.

Q - Would you recognize him if you saw him?

A - I don't know whether I would or not; I don't know.

Q - Was Corporal Elwood there?

A - Corporal Elwood, I believe he is the M.P. that came down and I went in his truck back to the station.

Q - Did anyone in the orderly room call you an abusive name?

A - When and where?

Q - In the Guard house?

A - No.

Q - Did Private Mucklerath call you a nigger?

A - He did.

Q - In the presence of Captain Baer?

A - In the presence of Corporal Elwood.

Q - In the orderly room?

A - No, sir.

Q - I am talking about there, in the orderly room?

A - No, sir.

Q - Did anyone insult you there in anyway?

A - Captain Baer did.

Q - Did he call you any abusive name?

A - No, sir.

Q - Did he call you a nigger?

A - No, sir.

Q - Did he provoke you in any manner?

A - Yes, he did.

Q - In what way?

A - I had instruction that I was to wait until Captain Baer came and to follow him in when he came, and I started to go in following him and Captain Baer turned to me and said very angrily that I was not to come in there until he called me; and

I thought I was supposed to be in there, since Private Mucklerath was in there.

Q - How long have you been in the service?

A - Since April 3, 1942.

Q - You knew that was an investigation in connection with an incident, and that it had to be conducted in an orderly manner, didn't you?

A - Yes, but I felt that I was involved and I had been told to come in when Captain Baer arrived.

Q - Did you ever conduct an investigation as an officer?

A - No, sir.

Q - Was Captain Baer anxious to get the testimony of each one on that occasion?

A - Yes, I am sure he was.

Q - Was it necessary to call each one in and take their statements?

A - The only ones there -

Q - Just answer my question; was it necessary to call the individuals in?

A - Yes, it was.

Q - When you injected certain remarks, were you interrupting?

A - I thought that it was in order that some important things get in; I did not do it in a disorderly manner; I have visited in court rooms in civilian life and have seen the same thing done in orderly manner and I did not know of any objection to it.

Q - But when Captain Baer told you to desist, you kept on?

A - I did not, I went out side on his first order, for I felt that he wanted me out and I did not go back and he did not

say any more to me until he came back from the mess hall.

Q - Do you think Captain Wigginton was lying about what he told on the witness stand?

A - Do you think I should answer that?

Q - Yes?

A - Yes, he was. I talked with Captain Wigginton at the investigation, and he did not testify that way at that time.

Q - Did Captain Wigginton insult you in any way?

A - He has never insulted me.

Q - Did he ever call you a nigger?

A - No.

Q - He treated you like a gentleman, didn't he?

A - He did.

Q - And so did Captain Baer?

A - I don't believe Captain Baer did.

Q - Did you see Captain Hamilton?

A - At the time of my statement, I saw him/

Q - He was not abusive, was he?

A - He did not say anything to me until I asked him why Captain Baer would not tell me whether I was under arrest.

Q - Do you know him?

A - Only on sight.

Q - Would you believe him if he told the same story?

A - If he told the right story, I would.

Q - He had no bias against you, has he?

A - I assumed that he was not up there, he was very nice and then he made a statement that I was facetious and disrespectful, and I don't know why he thought I was facetious,

unless it was because of what I told the lady about my statement, where the sentence was not complete, and when she got up and walked out and said she did not have to make excuses to me; and I just figured it was a typographical error, but I did not take any exception to her action, I just figured it was typical down here; and I suppose that was why Captain Hamilton said I was facetious.

Q - Coming down to the time that you were in the guard room; you don't remember leaning on the gate or anything about that?

A - Did I say that?

Q - Didn't you?

A - It is possible, but I don't remember.

Q - And it is possible that you had your hands in your pockets too, isn't it? ✓

A - Yes, it is possible.

Q - And it is possible that you bowed, isn't it?

A - No, that is not possible.

Q - Do you remember it?

A - I do remember; I was commissioned as an officer nineteen months ago.

Q - And you know what a proper salute is?

A - Yes, and I know when I should get one.

Q - You never saluted Captain Baer that entire evening?

A - Not to my knowledge.

Q - You had not been drinking, had you?

A - That's what I want to know.

Q - Did you drink any that evening?

A - Evidently they figured that I had.

Q - Well, did you?

A - No.

Q - You knew what you were doing that evening?

A - Thats right.

Q - And I will ask you if you had control of your mental  
~~faculties~~ faculties, full control?

A - I certainly did.

Q - Having full control of your mental faculties, I ask you now whether you remember saluting at any time, whether it was Captain Baer, Captain Wigginton, or any others?

A - To the best of my knowledge, I don't remember saluting.

Q - Do you remember bowing?

A - I did not bow, and Captain Wigginton testified to that at the investigation, and Major Daugherty had it in a statement and he brought that question up; Private Mucklerath and all the M.P.'s testified that I was bowing, and I asked Captain Wigginton if he could see me at all times, and he said he could.

Q - Were Corporal Elwood and Sgt. Painter in the room while this was taking place?

A - At different times they were, they kept going and coming.

Q - They were with the M.P. personnel in there?

A - Thats right.

Q - Other than the sergeant and corporal, and Mucklerath, the others were commissioned officers?

A - Thats right; they were the enlisted men.

Q - They know what happened in there, do they not?

A - Thats right.

Q - Coming back to the time that you were told to stay out of the room; did Captain Baer give you any order after you were constantly interrupting him?

A - I did not constantly interrupt; the only time that he gave me any semblance of an order was when he told me to get away from the door and stay until I was called, and that was not disobeyed, not willfully.

Q - I did not ask if you willfully disobeyed; I asked you if Captain Baer gave you any order; and I will ask you to the best of your recollection, what did Captain Baer tell you?

A - Best of my recollection, he told me to get away from the door and not interrupt and he would call me when he wanted me.

Q - Did he direct you to any place?

A - No, he did not.

Q - What did you do?

A - Well, I went outside and started to tossing rocks across the street.

Q - What happened then?

A - I was out there fifteen or twenty minutes before Captain Wigginton and Captain Baer came out, and they walked right passed me and went to the mess hall. Lt. Lightfoot was there, and when they came back that was when Captain Baer told me that he gave me an order to stay in the room, and he told me then to go back in there.

Q - Coming back to the time when you were speaking rapidly to the stenographer, were you told to slow down?

A - I was.

Q - Did you slow down?

A - I did.

Q - How did you slow down your speech?

A - I merely slowed down my speech.

Q - Do you remember how you slowed it down?

A - I think I do.

Q - Will you read the first paragraph here in this pamphlet and show the court how you slowed down?

A - "Regulations governing Court-Martial proceedings are contained in the - "

Q - Is that the way you slowed down? The manner in which you have just read?

A - The first time, that is right.

Q - The second time you slowed down; how did you do it?

A - Something like this, "Regulations governing Court-Martial" and then he interrupted me and I slowed down a little more.

Q - Did you then pause between words?

A - Not to my knowledge.

Q - With a sneer on your face?

A - I don't recall anything like that.

Q - And grimacing?

A - I was not, I had no reason for grimacing.

Q - As a matter of fact, Lieutenant, this argument between you and Captain Baer - withdrawn. Was it necessary for Captain Wigginton to tell you to behave toward the end of the investigation, or he would have to do something?

A - He did and the reason he told me that was because I

wanted to know whether I was under arrest, and I asked him a half dozen times; I was being sent back to McClosky Hospital under guard, under an armed guard, and if I was not supposed to be under arrest I could not understand that proceeding.

Q - After you asked him, did you get an answer?

A - I did not.

Q - Then you were pretty persistent about it?

A - Yes, sir.

Q - You became very argumentative, didn't you?

A - I merely asked.

Q - Did he tell you that you were in arrest in quarters?

A - He said, "If that is the way you want it, we will let it go".

Q - And you still persisted in your argument, didn't you?

A - When he told me that, that was after Captain Wigginton came back from talking on the telephone, and I left then, and one of the sergeants came out and said, "Lieutenant, I would not worry about this, these people don't know what they are doing" and he told another sergeant the same thing and we had a very nice discussion -

Q - You just answer my questions in connection with this incident; what did Captain Wigginton tell you?

A - He threatened to put me under arrest.

Q - For what reason?

A - If I did not take what Captain Baer told me about going back in the patrol wagon and quit talking.

Q - Did he tell you that you were insubordinate?

A - No, he did not; he said if I didn't quit talking to

Captain Baer about being under arrest, he would place me under arrest.

EXAMINATION BY THE COURT

Questions by Captain Spencer:

Q - Was there any chair in the receiving room?

A - Yes, sir.

Q - Did Captain Baer point out any chair to you?

A - I don't believe he could see any chair from where he was sitting; the chair was approximately in the position where Lt. Cline is sitting, and the door here; I don't believe he could have seen the chair, sir.

Q - He did not point out a chair to you?

A - Not to my knowledge; he did not tell me anything about a chair; all that he told me to do was to move away from the door and he would call me later.

Q - Did he tell you to remain in the room?

A - Not to my knowledge; he told me to get away from the door and he would call me.

(There being no further questions, the accused returned to his seat by defense counsel).

LT. COL. R. L. BATES, a witness for the defense, was sworn and testified as follows:

TJA: State your name, rank, organization, and station.

A - R. L. Bates, Lieutenant Colonel, Cavalry, 761st Tank Battalion, Camp Hood, Texas.

TJA: Do you know the accused?

A - I do.

TJA: What is his name?

A - Lt. Jack Robinson.

TJA: Is he present in the court room?

A - He is, here on my left.

DIRECT EXAMINATION

Questions by defense:

Q - Colonel, will you state your official duties?

A - I command the 761st Tank Battalion.

Q - Is the accused, or has the accused been a member of your command?

A - He was from April 3, 1944, to July 6, 1944.

Q - Do you know his reputation in the community in which he lived? By that I mean his camp, post, and station?

A - Particularly with the enlisted men, he is held in very high regard; he is a well known athlete -

PROSECUTION: I object, the answer is not responsive.

LAW MEMBER: The objection is sustained.

Q - Would you just answer yes or no, Colonel, do you know his general reputation in the community in which he lived? by that I mean his post, camp, and station?

A - It is excellent.

Q - Would you mind responding as to whether you know it?

A - Yes, I do know it and it is excellent.

Q - You anticipated my next question, Colonel; is that reputation good or bad?

A - Good.

Q - How do you regard him as to his ability as a soldier?

A - Excellent.

Q - Would you like to have him as a member of your organization, Colonel?

A - Yes, I tried to have him assigned to the Battalion, and was unable -

PROSECUTION: I object to the voluntary statements.

LAW MEMBER: Overruled.

Q - Continue, sir?

A - I was unable to have him assigned to the Battalion; he was attached unassigned, and I tried to have him assigned to the Battalion because of his excellent work.

Q - Sir, are you familiar with what is known as 66-1?

A - Yes, I am.

Q - What rating would you give to this officer on his 66-1?

A - Excellent.

Q - Would you be satisfied to go into combat with this officer under your command?

A - I would.

(There being no further questions, the witness was excused).

CAPTAIN JAMES R. LAWSON, a witness for the defense, was sworn and testified as follows:

TJA: State your name, rank, organization, and station.

A - James R. Lawson, Captain, Company B, 761st Tank Battalion, Camp Hood, Texas.

TJA: Do you know the accused? If so, state his name.

A - I do; Second Lt. Jack R. Robinson.

DIRECT EXAMINATION

Questions by defense:

Q - Will you just state to the court your official duty assignment, Captain Lawson?

A - I am Commander of Company B, 761st Tank Battalion.

Q - Has the accused been a member of your Command?

A - He was.

Q - How long?

A - From about April 20th to July 6th.

Q - From your association with him, do you know his general reputation in the community in which he lived? By that I mean his Post, Camp, and Station?

A - I do.

Q - Is that reputation good or bad?

A - Good.

Q - How do you regard the accused as to his ability as a soldier?

A - Excellent.

Q - Would you like to have him as a member of your Command?

A - I would.

(There being no further questions, the witness was excused).

2D LT. HAROLD KINGSLEY, a witness for the defense, was sworn and testified as follows:

TJA: State your name, organization, and station.

A - Harold Kingsley, Second Lieutenant, 761st Tank Battalion, Camp Hood, Texas.

TJA: Do you know the accused? If so, state his name.

A - I do, Jack Robinson.

DIRECT EXAMINATION

Questions by defense:

Q - Lt. Kingsley, how long have you known Lt. Robinson?

A - I have known him since April 8, 1944.

Q - As a result of that acquaintance, do you know his general reputation in the community in which he lived? By that I mean his Post, Camp, and Station.

A - Yes, sir.

Q - Is his reputation good or bad?

A - Good.

Q - How do you regard him as to his ability as a soldier?

A - Excellent.

(There being no further questions, the witness was excused). ✓

2ND LT. HOWARD B. CAMPBELL, a witness for the defense, was sworn and testified as follows:

TJA: State your name?

A - Howard B. Campbell, 2nd Lieutenant.

TJA: You are the same witness that testified previously?

A - Yes, sir.

TJA: This is to remind you that you are still under oath.

DIRECT EXAMINATION

Questions by defense:

Q - How long have you known the accused, Lt. Campbell?

A - About a year and four months.

Q - As a result of your acquaintance, do you know his general reputation in the community in which he lived? By that I mean his Post, Camp, and Station.

A - Yes, I do.

Q - Is that reputation good or bad?

A - Good.

Q - How do you regard him as to his ability as a soldier?

A - Very good.

(There being no further questions, the witness was excused).

DEFENSE: The defense rests.

1ST LT. GEORGE PAUL CRIBARI, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q - State your name, rank, organization, and station.

A - George Paul Cribari, First Lieutenant, Medical Corps, Dispensary N, Camp Hood, Texas.

Q - Lieutenant, do you remember anything occurring on July 6, 1944, in connection - withdrawn. Do you know the accused?

A - Yes, sir.

Q - Is he present in court?

A - Yes, sir.

Q - Did you see him on July 6, 1944?

A - I did.

Q - Where did you see him?

A - In the guard room at South Camp Hood, Texas.

Q - How did you happen to be there, Lieutenant?

A - I was returning from the Club about that time from having been to a club session that evening, and was coming from the club to my area and happened to be with Captain Hamilton

and Captain Wigginton at the time.

Q - When you went to the guard room, who was present?

A - Lt. Robinson, Captain Hamilton, Captain Baer, Captain Wigginton, and two enlisted men, and a Miss Wilson.

Q - Lieutenant, will you tell the court what transpired in that orderly room while you were present?

A - The main thing that took place, was the statement that Lt. Robinson made to Captain Baer.

Q - Did you come in at the time the statement was being taken?

A - I came in prior to the time the statement was begun.

Q - What was Captain Baer's attitude toward Lt. Robinson?

A - I don't know just what you mean.

Q - How did he conduct himself toward Lt. Robinson during the entire time you were present?

A - Well, it seemed perfectly orderly and proper for the Provost Marshall to question him; his general statements were "Lt. Robinson, did you or did you not do this or that"; but I don't remember the exact questions he put to the Lieutenant, but I presumed he was getting a statement.

Q - I am not interested in that, but what was Captain Baer's general attitude? Did he show any animosity or antagonism toward Lt. Robinson?

A - None whatever that I could see.

Q - What was Lt. Robinson's attitude toward Captain Baer while you were present? Will you describe his actions?

A - Do you mean specific instances?

Q - That is correct?

A - On various occasions I saw Lt. Robinson - I believe that is his name - was what I would say very rude toward Captain Bear.

LAW MEMBER: Will you explain that?

A - By being rude - my interpretation might be somewhat different - on several occasions the Lieutenant, after having been asked a question, he would sit there and put his hands on his knees and shake his head and say, "I ain't got a chance" and kind of smirking or smiling and on one occasion he got up and put his hands in his pockets and walked toward the door and came back -

LAW MEMBER: Now, will you put your hands in your pockets and show us. (Witness demonstrates) You shook your head from side to side?

A - Yes sir.

Q - Were you there when Captain Bear told the accused not to talk so rapidly?

A - Yes, sir.

Q - What happened?

A - The first that he did was to smile and show his teeth, sort of a grimace or grin more than anything else; I forgot what his statement was at the time he began, but it was something like this, "Well - I - was - on - the - bus" and he would nod his head each time he would say a word, and "from - there - I - took - two - more - steps"; nodding his head each time.

LAW MEMBER: You have recited those words in a slow speech, with an exaggerated pause between each word; is that correct?

A - Yes, sir.

CROSS EXAMINATION

Questions by defense:

Q - Did you become indignant over what you witnessed there?

A - Did I?

Q - Yes, sir.

A - I don't believe I did, I had no interest in the case at all, Lieutenant; I was merely an innocent by-stander, merely witnessing the disrespect of one officer to his superior -

DEFENSE: I object to the voluntary conclusion of the witness.

PROSECUTION: He asked for it.

LAW MEMBER: The answer given was in part voluntary, and the objection is proper.

Q - How many times was Lt. Robinson requested to slow down his pace of speech?

A - Only on one occasion as I recall it.

Q - Were you there during the entire time?

A - Not the entire time; I think I was there approximately an hour.

Q - And you heard it just one time; is that your answer?

A - Yes, sir.

EXAMINATION BY THE COURT

Questions by Law Member:

Q - Did you know Captain Bear?

A - You mean personally? He is an acquaintance; I just know him from having met him at the Stockade when I was called there professionally.

Q - Was Captain Bear present on this occasion?

A - Yes, sir.

Q - What was his rank at that time?

A - Captain, sir.

Questions by Captain Spencer:

Q - Did you hear Captain Bear give Lt. Robinson any order while you were present relative to his being quiet?

A - I don't recall anything of that sort, sir.

LAW MEMBER: That is something this witness does not appear to have knowledge of.

Questions by Captain Carr:

Q - You said something or demonstrated something about Lt. Robinson putting his head between his hands; would you consider that as being rude to you?

A - Yes, sir.

Q - Will you tell me why?

A - When an enlisted man comes to his superior, he is at attention or at ease and he is not permitted to be slouching around and bowing, and I find that inferior officers should not do so in the presence of superior officers; they should conduct themselves in the same manner they expect enlisted men to do in their presence. ✓

Q - Is that the custom of the service?

A - I believe so, sir.

Q - You think so?

A - I do it myself.

Q - Was the accused permitted to sit down?

A - Yes, sir.

Q - He could lower his hands or rest them on his knees, could he not?

A - It was not that, sir; I think that would be permissible; but it was the expression on his face and features; in my opinion any man may put his hands down, or rest his head on his hands, for

he might be feeling pain; but that does not mean that he should grimace and smirk at the same time.

Q - What do you mean by grimace?

A - Grimace is assuming a contemptuous position of your facial muscles; assuming a contemptuous attitude toward another person.

Q - I do not quite understand you, Doctor?

A - Grimacing is done by the muscles of the face.

Q - Am I grimacing now? (demonstrating)

A - I think so, if your attitude toward me was that of resentment, and the tone of your voice was such that would go with it.

Questions by Major Mowder:

Q - If a man was at ease, and had been given "at ease" by his superior officer, would you consider that conduct rude?

A - I think a man is always at ease when sitting down.

Q - You brought out that he was supposed to be at attention?

A - I was merely using that as an analysis between an enlisted man and his superior officer.

DEFENSE COUNSEL: I wonder if the record shows that this accused had his head between his legs when he made the answer to a question and said "I haven't got a chance" or substantially that statement?

WITNESS: He had his head between his hands and he was bent over, sort of, you might say between his legs.

DEFENSE COUNSEL: Did you mention that he said "I haven't got a chance"?

WITNESS: Yes, sir.

(There being no further questions, the witness was excused).

CORPORAL GEORGE A. ELWOOD, a witness for the prosecution,  
was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q - State your name, grade, organization and station.

A - George A. Elwood, acting corporal, Military Police Section,  
, Enlisted Detachment, 1848th Unit, Camp Hood, Texas.

Q - Do you know the accused?

A - Yes, sir.

Q - What are your duties, Corporal?

A - I am on motor patrol; I patrol the Camp area.

Q - Were you on duty July 6, 1944?

A - Yes, sir. ✓

Q - Did you have occasion to see the accused at the Guard  
room that evening?

A - Yes, sir.

Q - When you arrived there who was present?

A - The sergeant of the guard -

Q - What is his name?

A - Painter; and Corporal Feris, and Private -

Q - Was Captain Bear there?

A - Not right at that time, sir.

Q - Was Captain Wigginton there?

A - Not at that time.

Q - When Did Captains Bear and Wigginton arrive?

A - Captain Wigginton arrived there about twenty minutes  
later, and Captain Bear about twenty-five minutes later.

Q - When Captain Bear arrived, will you tell what trans-

pired from that time until Lt. Robinson left?

A - Captain Bear came into the guard room and Lt. Robinson started to follow him in there and Captain Bear told Lt. Robinson to wait outside, that he would tell him or see him later; Captain Bear then started talking to Captain Wigginton, who was the O.D., and Lt. Robinson came in and interrupted him and Captain Bear told Lt. Robinson to be quiet and he would call him in later; and Captain Bear continued his discussion with Captain Wigginton of what had happened, and Lt. Robinson insisted on saying something and Captain Bear told Sgt. Painter to put a chair in the outer office and told Lt. Robinson to be seated in that chair.

DEFENSE: I object unless the accused was present.

Q - Was the accused present when Captain Bear gave him the order you have just stated?

A - Yes, sir.

Q - What was that order that Captain Bear gave Lt. Robinson?

A - He told him, said, "Lieutenant, you be seated in the <sup>OUTER</sup> outer office in that chair until I call you" or words to that effect.

Q - What happened?

A - Well, sir, Lt. Robinson went out and sat down in the chair and stayed there for a little while and then got up and went outside.

Q - Did you see him outside?

A - Yes, sir.

Q - What was he doing outside?

A - Talking to a jeep driver, the driver for the O.D. of the

761st Tank Battalion.

Q - Did Captain Bear see him out there?

A - Yes, s ir.

Q - What did he say to him?

A - I did not hear it, sir.

Q - What was the attitude of Lt. Robinson, when Captain Bear gave him the order to go sit in the chair?

A - May I stand up, sir?

Q - Stand up and show the court?

A - Captain Bear gave him the order to go in the ~~outer~~ <sup>OUTER</sup> office and the Lieutenant said, "Yes, sir, yes, sir" mockingly and with a smile on his face, and as he did that, he turned around and put his hands in his pockets and sauntered off. ✓

LAW MEMBER: Could you put in words what he did, how you have demonstrated it? Did he bend forward as he said the words you have repeated?

A - Yes, sir, I would say he bent to about a 70 degree angle, and had a smile or grin on his face, just like he was making fun of the Captain, and did this way; I would not call it a salute.

Q - Was his right hand touching his right eye?

A - Yes, sir.

Q - Describe that action?

A - He just seemed to bow from his waist on up. When he came in from the outer room to interrupt Captain Bear, he was leaning over on this half door on his elbows and was addressing Captain Bear in that manner.

Q - Continue, what else happened from the time that Captain Bear arrived?

A - Well, after Captain Bear gave him that order and he bowed and gave that half salute and went in the outter office and sat down, and as he did so, he had his hands in his pockets and sort of sauntered towards the chair.

CROSS-EXAMINATION

Questions by defense:

Q - Corporal, how big a desk was that?

A - It was not a desk, sir, it comes about to here on me. ✓

Q - About three feet and a half?

A - Just about, sir; its just a door cut in two.

Q - I am asking about the desk and you are telling about a door?

A - It is not a desk, sir; but a half door.

Q - It is a half door between the two offices and not a desk?

A - Thats right, sir.

Q - And the Lieutenant was leaning over on that door?

A - Thats right, sir.

Q - Were his elbows on the door?

A - Thats right, sir.

Q - At the time - at no time did you see him lean on a desk?

A - No, sir.

Q - Did you hear Captain Bear say to the accused when he first came in, "What are you doing following me in"?

A - No, sir.

Q - What did you hear Captain Bear say; the first thing he said in your presence?

A - The first thing in my presense, when he came in he <sup>OUTER</sup> told the Lieutenant to wait in the ~~outer~~ room and he would call him later.

Q - Were any other witnesses in that room?

A - Yes, sir, Sgt. Painter was in there.

Q - Was Private Mucklerath in there?

A - Yes, sir.

Q - Were they told to leave the room?

A - No, sir.

Q - The were in the room or on the outside?

A - Inside, sir.

Q - How could you see the accused sitting in the chair from where you were inside the room?

A - I did not see him sitting in the chair, but he was told to sit in it.

Q - Do you remember testifying that he went back and sat down in the chair and then went outside?

A - Yes, sir.

Q - Why did you say that?

A - Because I left the guard room and he was in the chair when I went through going to the orderly room to see if Miss Wilson was ready.

Q - He was not outside tossing stones when you went out?

A - No, sir, but when I came back from the orderly room, he was outside.

Q - Was Sgt. Painter sitting in there guarding the Lieutenant?

A - No, sir.

Q - So far as you know he was not sitting out there?

A - No, sir.

Q - Then he did not do what he was ordered to do?

A - He was not ordered to sit there, he was ordered to get a chair for Lt. Robinson to sit in.

Q - There was no chair in that room and Captain Bear ordered the Sergeant to get one for the Lieutenant to sit in?

A - That's right, sir.

Q - Is Captain Bear over you?

A - Yes, sir.

Q - How many times have you gone over this with him?

A - I have not gone over it, sir.

Q - You have not talked to Captain Bear about it?

A - No, sir.

#### RE DIRECT EXAMINATION

Questions by prosecution:

Q - Did you hear any abusive language used by either Captain Bear or Captain Wigginton toward Lt. Robinson?

A - No, sir.

Q - Did you hear Private Mucklerath use the word "nigger"?

A - No, sir.

(There being no further questions, the witness was excused).

PRIVATE FIRST CLASS, BEN W. MUCKLERATH, a witness for the prosecution, was sworn and testified as follows:

#### DIRECT EXAMINATION

Questions by prosecution:

Q - State your name, grade, organization, and station.

A - Ben W. Mucklerath, Private First Class, Company D, 149th

Training Battalion, Camp Hood, Texas.

Q - Do you know Lt. Robinson?

A - Yes, sir.

Q - Do you remember seeing him on July 6, 1944?

A - Yes, sir.

Q - Did you ever call him a nigger?

A - No, sir.

CROSS EXAMINATION

Questions by defense:

Q - Private Mucklerath, do you recall Lt. Robinson telling you that if you ever called him a nigger he would break you in two?

A - Yes, sir.

Q - Why do you suppose he said that you you?

A - I don't have any idea what he was thinking; I was repeating something that I had heard, of an incident that had happened at the Military Police Station at Camp Hood.

Q - Do you deny that you went to the M.P. on the truck at the bus station and said "Do you have the nigger lieutenant in the car"; do you deny that you made that statement?

A - At no time did I use the word "nigger".

Q - You deny that you made that statement?

A - I never used the word "nigger" at any time, sir.

(There being no further questions, the witness was excused).

PROSECUTION: . The prosecution rests.

CORPORAL GEORGE A. ELWOOD, recalled by the defense, testified as follows:

TJA: What is your name?

A - George A. Elwood, sir.

TJA: You are the same witness who testified previously?

A - Yes, sir.

TJA: This is to remind you that you are still under oath.

DIRECT EXAMINATION

Questions by defense:

Q - Corporal, do you know Private Mucklerath?

A - Not personally, sir.

Q - Would you know him if you saw him?

A - Yes, sir.

Q - Did he ever ask you at any time if you had a nigger lieutenant in your car?

A - Yes, sir, he did at the bus station.

CROSS-EXAMINATION

Questions by prosecution:

Q - Where was Lt. Robinson at the time?

A - I had him sitting in my vehicle.

Q - To your knowledge, could Lt. Robinson have heard him ask that question?

A - Yes, sir, I guess he could.

(There being no further questions, the witness was excused).

PROSECUTION: The prosecution has no further evidence, does the court desire any witnesses called or recalled?

PRESIDENT: The court does not.

Closing arguments were made by the defense and prosecution.

PRESIDENT: The court will be closed.

FINDINGS

Neither the prosecution nor the defense having anything further to offer, the court was closed and voted in the manner prescribed in Articles of War 31 and 43. Upon secret written ballot, two-thirds of the members present at the time the vote was taken ~~concerning in each finding of guilty~~ the court finds the accused:

of all specifications and charges: Not guilty; and therefore acquits the accused.

PREVIOUS CONVICTIONS, ETC.

The court was opened and the trial judge ~~advised~~ stated in the presence of the accused and his counsel that he had ~~received~~ evidence of previous convictions, which ~~was~~ read to the court and is attached as Exhibit ~~\_\_\_\_\_~~  
(~~insert name of court~~)

The trial judge ~~advised~~ read the data as to age, pay, service, and data as to restraint of accused as shown on the charge sheet as follows:

Age \_\_\_\_\_ Pay \$ \_\_\_\_\_ per month ~~\_\_\_\_\_~~ Additions to dependents \$ \_\_\_\_\_ per month  
(~~insert number of dependents~~)  
Government insurance deduction \$ \_\_\_\_\_ per month.  
Data as to service \_\_\_\_\_

Data as to restraint of accused \_\_\_\_\_

Prosecution to accuse ~~\_\_\_\_\_~~ that data correct?

Accused ~~\_\_\_\_\_~~

SENTENCE

~~The court was closed, and upon secret written ballot \_\_\_\_\_ of the members present at the time, the vote was taken concerning sentencing the accused to~~

The court was opened and the president announced the findings ~~and sentence~~

The court then, at 6:00 o'clock, P.M., 2 August, 1944,  
adjourned until the next call of the President.

AUTHENTICATION OF RECORD

John E. Perman ✓  
JOHN E. PERMAN, Lt. Col. F.A.  
a member in lieu of the president  
because of his absence.  
~~XXXXXXXX~~

Milton Gordon ✓  
MILTON GORDON,  
2ND LT., A.U.S.,  
Trial Judge Advocate.

I examined the record before it was authenticated.

William A. Cline ✓  
WILLIAM A. CLINE,  
2ND LT., A.U.S.,  
Defense Counsel.