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**Title:** [STREEFKIRK Cornelius (Private) : Service Number - VX13103 : GISLINGHAM Robert Arthur (Private) VX12918 : Unit - 6th Australian Composite Training Regiment : Date of Court Martial - 15 November 1940]

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TELEPHONES:  
MXY 440.  
CENTRAL 7185.

COMMONWEALTH OF AUSTRALIA.

DEPARTMENT OF THE ARMY.

24154

No. ....  
MEMORANDUM For:-

MELBOURNE, S.C.1.

MAR - 6 1942

The Secretary,  
Attorney-General's Department,  
CANBERRA A.C.T.

VX.13103, Pte. Cornelius Streefkirk )6 Aust. Comp.  
D.C.M. VX.12918, Pte. Robert Arthur Gislingham)Tng. Regt.

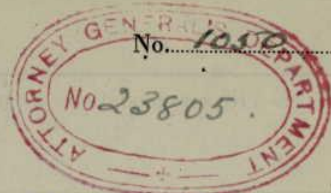
I forward herewith the proceedings of the above Court-Martial held at Deir Suneid on the fourteenth and fifteenth of November, 1940, for record in your Department. I should be glad if you would insert your registration number of the proceedings in the pink form attached and return it to my Department.

OPHE  
Accession. Attorney-General's Dept.  
10 MAR 1942

*F. R. Sinclair*  
F. R. Sinclair  
Secretary.

Accountant  
9 4 19  
*[Signature]*

**AUSTRALIAN MILITARY FORCES  
RECORDS OF COURTS MARTIAL**



1. Proceedings of a\* District court martial assembled at Dier Sunaid  
15 VX.13103 Pte. Cornelius Streefkirk and  
on 14<sup>th</sup>/11/19.40 for trial of †VX.12918 " Robert Arthur Gislingham.

both of 6 Aus Comp Tg Rgt, convened by order of †Lt-Gen Sir Thomas Blamey, CB, CMG, DSO.  
G.O.C. 1st Aus Army Fc AIF. dated 13/11/1940.

	Rank.	Name.	Unit.	Date of first commission.
President	Major	W.M.M. IRVINE	2/5 Bn.	1 / 8 / 34
Members	Major	A.H. SMITH	Tng. Wing Gen Base Depot.	1 / 9 / 34
	Captain	R. JOSHUA	17 Inf Tng Bn.	22 / 11 / 36
				/ /

Number of § Charge	Statement of Offence in Charge	Plea of Guilty or Not Guilty	Finding
1. A.A.Sec. 41	See annexed statement.	VX13103 Guilty VX12918 Not Guilty	Guilty Guilty
2. A.A.Sec. 41 (Alternative to first and third charges)	" " "	VX12918 Not Guilty VX13103 Not Guilty	Not Guilty Not Guilty
3. A.A.Sec. 41 (Alternative to First and Second charges)	" " "	VX12918 Not Guilty VX13103 Not Guilty	Not Guilty Not Guilty

2. Plea to jurisdiction or in bar, if any, and how disposed of:—

3. Sentence (including recommendation to mercy, if any):—

VX.13103 (1) Discharge from the Defence Force of the Commonwealth of Australia.  
" (2) To be imprisoned with hard labour for two years.

VX.12918 (1) Discharge from the Defence Force of the Commonwealth of Australia.  
" (2) To be imprisoned with hard labour for two years.

Date of original signature of President 15/11/1940.

\*Whether General, District or Field General.  
†No., rank, name and unit of accused.  
‡Rank, name and appointment of convening authority.  
§Alternative charges to be indicated.



4. Recommendation of suspension of sentence, if any:—

5. Proceedings before confirmation reported upon by:—

Major Thomas P. Fry, L.S.O. 1st Aust. Corp

6. Minute of confirming authority:—

Confirmed.

Lt.-Gen. Sir Thomas A. Blamey, C.B., C.M.G., D.S.O.  
G.O.C., 1st Aust. Army Corps, A.I.F.

Signed on 6/12/1940 by

7. Date of promulgation 21/12/1940.

Only sentence of imprisonment promulgated. *Letter of Discharge promulgated  
which accrued on 2/3/42.*

8. Mitigation, remission, commutation or suspension of sentence, if any, subsequent to confirmation, and by whom ordered:—

9. By whom proceedings reported upon after confirmation:—

Brigadier W. B. Simpson. 9.7.41.

*✓ Judge Advocate General 2/2/42*

10. Nature of Report:—

*Promulgation of discharge with effect*

11. Remarks:—

¶Name, rank and appointment of confirming authority.



C H A R G E   S H E E T .

The accused, No. VX.13103 - Private CORNELIUS STREEFKIRK and No. VX.12918 - Private ROBERT ARTHUR GISLINGHAM, both of 6th Australian Composite Training Regiment, are charged with having, while being soldiers of the Military Forces of the Commonwealth of Australia on War Service, each committed the following offences:-

First Charge.  
(Alternative to  
Second and Third  
Charges.)  
Army Act Sec. 41.

Committing a civil offence, that is to say,  
wounding with intent, contrary to Section 18 of the  
Offences Against the Person Act, 1861;

in that he

at DEIR SUNEID, on the fifteenth day of October,  
1940, wounded No. VX.10501 Private W. J. Hardy,  
6th Australian Composite Training Regiment, with  
intent to do him grievous bodily harm.

Second Charge.  
(Alternative to  
First and Third  
Charges.)  
Army Act Sec. 41.

Committing a civil offence, that is to say,  
assault contrary to section 47 of the Offences Against  
the Person Act, 1861;

in that he

at DEIR SUNEID, on the fifteenth day of October,  
1940, assaulted No. VX.10501, Private W. J. Hardy,  
6th Australian Composite Training Regiment, thereby  
occasioning to the said No. VX.10501, Private W. J.  
Hardy, actual bodily harm.

Third Charge.  
(Alternative to  
First and Second  
Charges.)  
Army Act Sec.41.

Committing a civil offence, that is to say,  
assault with intent to rob contrary to Section 23(3)  
of the Larceny Act 1916;

in that he

at DEIR SUNEID, on the fifteenth day of October,  
1940, assaulted No. VX.10501, Private W. J. Hardy,  
6th Australian Composite Training Regiment with  
intent to rob him.



AUSTRALIAN MILITARY FORCES.

42751/252  
Please quote this number when replying.

RECEIVED  
-4-FEB-42 PM  
JUDGE ADVOCATE-GENERAL.  
CHALFONT CHAMBERS,  
CENTRAL REGISTER PHILLIP STREET,  
SYDNEY.

~~Victoria Barracks, Sydney~~  
(Date) 2nd February, 1942.

Adjutant General,  
Army Headquarters,  
Victoria Barracks,  
MELBOURNE.

D.C.M. No. VX15103 Pte. C. Streefkirk ) 6 Aust. Comp.  
No. VX12918 Pte. R.A. Gislingham ) Tng. Regt.

In reply to your memorandum 11009 of the 29th January I have read through the proceedings of the above District Court Martial held at Dier Sunaid on the 14th and 15th November 1940 and report as follows.

2. The proceedings having been reported upon by the D.J.A.G. (M.E.) I have no remarks to make other than to point out that the sentence of discharge in each case has not yet been promulgated.
3. As soon as the prisoners arrive in Australia and they are handed over to a civil gaol to complete their sentence this should be done and the discharge completed.
4. I return herewith the proceedings.

*J. H. Lusk*

JUDGE ADVOCATE GENERAL.

RECEIVED  
5 FEB 1942  
A.G.S.

24/2/42  
24/2/42  
24/2/42

1/3



2nd. ECHELON  
2nd. A.I.F. Overseas  
11. JUL. 1941  
RECEIVED.

AUSTRALIAN IMPERIAL FORCE.

HEADQUARTERS, AIF (ME)  
8 Jul 41

5384

O. 1/c Records,  
2 Echelon, AIF.

DCM - VX 13103 Pte C. STREEFKIRK AND VX 12918  
Pte R.A. GISLINGHAM, BOTH OF 6 AUS COMP TNG REGT

Herewith Court Martial Records of the above-mentioned DCM.

After extraction of any information therefrom please return the complete file to AHQ for filing with Attorney General's Department as required by DA 99.

*B. Simpson*  
Brigadier,  
DJAG.

*LJH 27/11*





AUSTRALIAN IMPERIAL FORCE.

HEADQUARTERS, AIF (ME)  
9 Jul 41

GOC, AIF (ME)

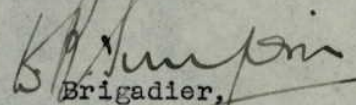
DCM WHICH TRIED VX 13103 Pte C. STREEFKIRK AND  
VX 12918, Pte R.A. GISLINGHAM  
BOTH OF 6 AUS COMP TRNG REGT

This DCM was convened and confirmed by yourself and I am of opinion that no action on review is required. The Court was correctly convened and confirmed, the finding justified by the evidence, and the sentence within the powers of the Court.

The sentence was: (1) Discharge from the Defence Forces.  
(2) Imprisonment with hard labour for 2 years.

and only the second sentence has been promulgated. (See page F of the record).

By a ruling dated 6 Jun the Judge Advocate General has ruled that in such cases the sentence of dismissal will take effect on promulgation. It is therefore desirable that the attention of AHQ should be directed to this matter.

  
Brigadier,  
DJAG.





## 2ND AUSTRALIAN IMPERIAL FORCE.

OVERSEAS BASE

HEADQUARTERS,  
1 Aust Corps  
3 Dec 40

GOC.

ADVICE CONCERNING CONFIRMATION OF THE DCM.  
WHICH TRIED Ptes. C. STREEFKIRK AND R.A. GISLINGHAM

1. I am of opinion that the finding and sentence in this case can legally be confirmed.
2. On 14 Nov 40 at DEIR SUNEID a DCM., convened by the GOC., 1 Aust Corps, tried VX 13103 Pte. C. Streefkirk and VX 12918, Pte. R.A. Gislingham, both of 6 Aus Comp Trng Regt., on the following three alternative charges, each of the three charges alleging commission of a civil offence, as follows:
  - (i) Wounding with intent, contrary to S 18 of the Offences against the Person Act, 1861;
  - (ii) Assault contrary to S 47 of the Offences against the Person Act, 1861; and
  - (iii) Assault with intent to rob contrary to S 28(2) of the Larceny Act, 1916.

Before the accused were arraigned, the Defending Officer applied for separate trials on the ground that one of the accused was likely to give evidence which might prejudice the other accused. This application was refused by the Court.

Thereupon, on being arraigned, Pte. Streefkirk pleaded Guilty to the first of the three alternative Charges, and the second and third alternative charges were withdrawn by the Prosecutor; whilst Pte. Gislingham pleaded Not Guilty to all three of the Charges.

The Court found both the accused persons Guilty of the first of the Charges, and found Pte. Gislingham Not Guilty of the second and third of the alternative Charges.

The Court sentenced each of the accused (i) to discharge from the Defence Force of the Commonwealth of Australia and (ii) to be imprisoned with hard labour for two years.
3. The President and Members of the Court were qualified, the accused persons were subject to military law, and the Charges disclosed offences against the Army Act.
4. I am of opinion that there was ample evidence to support the conviction. In addition to the evidence of eye-witnesses there was evidence of statements by the accused which could be accepted by the Court as evidence of an admission of guilt, especially in the evidence of Pte. Warnock on Page 10. There was also evidence of false denials; see the evidence of Pte. Berry on page 10.
5. Even were it considered doubtful on the evidence whether Pte. Gislingham himself "wounded" Pte. Hardy, in the sense of breaking the skin with the bat, Pte. Gislingham could properly be convicted of "wounding", as there is sufficient evidence (i) that he was present when Pte. Streefkirk "wounded" Pte. Hardy with intent, and that he aided and abetted Pte. Streefkirk in committing the offence (MML. p 107), and (ii) that there was evidence of combination by Ptes. Streefkirk and Gislingham for an unlawful purpose (MML p 107).



5. Certain parts of the evidence was improperly admitted. For instance, the medical evidence included an assumption that the injuries had been caused by blows, instead of merely being of a nature that could have been caused by blows (Pages 5 and 11). It would seem also that there was improperly admitted in evidence the result of questioning of the accused persons whilst in custody. (For example, see Capt. Nugent's evidence on page 7). But in my opinion the accused persons have suffered no injustice thereby.

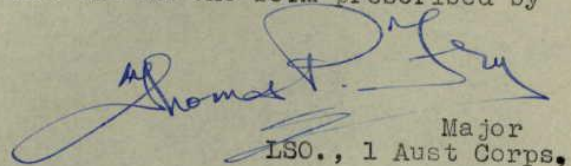
7. The application for separate trials does not seem to have been based upon the ground specified by RP. 16, and, even were it so based, the Court was within its powers in refusing to grant the application.

8. Pte. Streefkirk, who pleaded Guilty to wounding with intent to inflict grievous bodily harm, was warned in accordance with RP 35(B). He subsequently gave evidence on behalf of Pte. Gislingham, and at that stage admitted the assault and that he had "determined to use force on Hardy". Later, before the Court recorded its verdict against Pte. Streefkirk, he replied in the negative when asked whether there was any statement he wished to make in mitigation of punishment.

In all the circumstances I am of opinion that, despite the account of the affair given by Pte. Streefkirk in his evidence for Pte. Gislingham after Pte. Streefkirk's plea of Guilty, the Court acted properly in accepting his plea of Guilty.

9. The punishments inflicted in the sentence were legally inflicted by the Court.

10. The medical certificates are not in the form prescribed by AMRO. 522.

  
Major  
LSO., 1 Aust Corps.



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

A

Army Form A9.

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

Proceedings of a DISTRICT Court-Martial held at DEIR SUNEID on the 14th day of November 1940 by order of Lieutenant-General Sir Thomas Blamey, C.B., C.M.G., D.S.O., General Officer Commanding 1st Australian Army Corps, Australian Imperial Force Commanding

dated the 13th day of November 19 40

President.

Major W.M.W. Irvine, 2/5 Bn

Members.

Major A.H. Smith, Training Wing General Base Depot  
Capt R. Joshua, 17 Infantry Training Battalion

Judge Advocate *W.M.S.*

Trial of\* VX 13103 Private Cornelius Streefkirk, VX 12918 Private Robert Arthur Gislingham, Both of 6th Australian Composite Training Regiment

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

*W.M.S.* ~~The Court satisfy themselves that \_\_\_\_\_ is not available to serve owing to~~

*W.M.S.* ~~\_\_\_\_\_ waiting member takes his place as a member of the Court~~

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

The accused is brought before the Court.

Prosecutor, † Lieut H.A. Solomon, 6 Aust Cav Regt Reinfs

*W.M.S.* Counsel † or defending officer † Lieut C.K. Brown, 16 Infantry Training Battalion  
At 1000 o'clock the Trial commences.

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

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

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

No.

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

\* Here insert No., Rank, full Name, Regiment, and Appointment (if any).  
† Here state Rank and Name, and Regiment (if any).  
‡ Qualification to be stated.

(1) *W.M.W. Irvine Maj. President*

2.

**B**

*B.M.S.*

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

*B.M.S.*

The following officers under instruction are duly sworn.

At this stage the Court was adjourned to enable the Defending Officer to interview the accused

Defending Officer applied for separate trial on grounds that one of the accused was likely to give evidence which might prejudice the other accused. Application was not allowed by Court.

**Charge-Sheet.**

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

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

*B.M.S.*

are

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

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

*Question to the accused.*

Streefkirk - Guilty

Gislingham - Not Guilty

*Answer.*

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

*Question.*

Gislingham - Not Guilty

*Answer.*

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

*Question.*

Gislingham - Not Guilty

*Answer.*

*B.M.S.*

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

*Question.*

The accused, VX 13103 Pte Cornelius Streefkirk having pleaded GUILTY to the first charge, the provisions of Rule of Procedure 35(b) are here complied with.

*Answer.*

*B.M.S.*

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

*Instruction.*

*B.M. Irvine May*  
*President*



AUSTRALIAN MILITARY FORCES.

AUSTRALIAN IMPERIAL FORCE ORDERS.

by

LIEUTENANT-GENERAL SIR THOMAS BLAMEY, C.B., C.M.G., D.S.O.,  
GENERAL OFFICER COMMANDING, 1st AUSTRALIAN ARMY CORPS,  
AUSTRALIAN IMPERIAL FORCE.

GAZA  
PALESTINE.

The officers mentioned below will assemble at Deir Suneid, Palestine, at 1000 hours on Thursday the fourteenth day of November, 1940, for the purpose of trying by a District Court-Martial the accused persons named in the margin and such other person or persons as may be brought before them.

PRESIDENT:

MAJOR W. M. W. IRVINE 2/5 Battalion ) is appointed  
 ) PRESIDENT

MEMBERS:

MAJOR A. H. SMITH Training Wing, ) are appointed  
General Base Depot. ) MEMBERS  
CAPTAIN R. JOSHUA 17 Infantry Training )  
Battalion. )

WAITING MEMBER:

CAPTAIN L. M. NEWTON H.Q., A.I.F. ) is appointed  
 ) WAITING MEMBER.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to Headquarters, 1st Australian Army Corps.

Signed this *thirteenth* day of November, 1940.

*Th. Blamey*

LIEUTENANT-GENERAL,  
GENERAL OFFICER COMMANDING  
1st AUSTRALIAN ARMY CORPS  
AUSTRALIAN IMPERIAL FORCE.

*W. M. W. Irvine Maj.*  
*President*

VX 13103 PTE CORNELIUS STREEFKIRK and VX 12918 PTE ROBERT  
ARTHUR GISLINGHAM, BOTH OF 6TH AUSTRALIAN COMPOSITE  
TRAINING REGIMENT.

"J"



CHARGE SHEET.

4

The accused, No. VX 13103 - Private CORNELIUS STREEFKIRK and No. VX 12918 - Private ROBERT ARTHUR GISLINGHAM, both of 6th Australian Composite Training Regiment, are charged with having, while being soldiers of the Military Forces of the Commonwealth of Australia on War Service, each committed the following offences:-

First Charge  
(Alternative to  
Second and Third  
Charges.)  
Army Act Sec. 41.

Committing a civil offence, that is to say, wounding with intent, contrary to Section 18 of the Offences Against the Person Act, 1861;  
in that he

At DEIR SUNEID, on the fifteenth day of October, 1940, wounded No. VX 10501 Private W. J. Hardy, 6th Australian Composite Training Regiment, with intent to do him grievous bodily harm.

Second Charge  
(Alternative to  
First and Third  
Charges.)  
Army Act Sec. 41.

Committing a civil offence, that is to say, assault contrary to section 47 of the Offences Against the Person Act, 1861;

in that he

At DEIR SUNEID, on the fifteenth day of October, 1940, assaulted No. VX 10501, Private W. J. Hardy, 6th Australian Composite Training Regiment, thereby occasioning to the said No. VX 10501, Private W. J. Hardy, actual bodily harm.

Third Charge  
(Alternative to  
First and Second  
Charges.)  
Army Act Sec. 41.

Committing a civil offence, that is to say, assault with intent to rob contrary to Section 23(3) of the Larceny Act 1916;

in that he

At DEIR SUNEID, on the fifteenth day of October, 1940, assaulted No. VX 10501 Private W. J. Hardy 6th Australian Composite Training Regiment with intent to rob him.

*Res. Hutchison*

DEIR SUNEID  
13 Nov 1940.

LIEUTENANT-COLONEL,  
COMMANDING 6th AUSTRALIAN  
COMPOSITE TRAINING REGIMENT.

" 2

To be tried by a District Court Martial.

GAZA  
13 Nov 1940.

*W. M. Irvine Maj.*  
LIEUTENANT-GENERAL,  
G.O.C., 1st AUSTRALIAN ARMY CORPS.  
AUSTRALIAN IMPERIAL FORCE.



C

Proceedings on Plea of Not Guilty.

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

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

Answer. No.

*W.M.S.*

The prosecutor makes an opening address ~~[hands in a written address which is read, marked \_\_\_\_\_, signed by the President, and attached to the proceedings.]~~ *Attached to and marked "R"*

The prosecutor proceeds to call witnesses.

First witness for prosecution.

NX 340 Captain William Maurice Ada, 1st Aust Gen Hosp, A.I.F.

being duly sworn, is examined by the prosecutor.

On 17 Oct Pte Hardy was admitted to Hosp. (Identifies Hardy) He was suffering cerebral concussion, lacerated wounds of the face and the scalp, bruising of both eyelids, sub-conjunctive Haemorrhage, and bruised index and middle fingers of the right hand. The skin of the scalp was broken and also that of his forehead. His injuries were consistent with his having been battered with a steel helmet and a boot. He was in Hosp 23 days, and was then sent to the Conv Depot.

Gross examined by the Defending Officer

All of the injuries could not have been caused by being struck by a very hard fist, not the lacerated wounds of the scalp on the forehead and upwards. The wound would be consistent with Hardy having fallen and struck a ragged object.

Re-examined by the Prosecutor

The dome of the tin hat could not have caused the lacerated wounds.

Questioned by the Court

I cannot give the Court any idea of the number of blows struck.

R.P. 83(b) observed. Witness withdraws.

*W.M. Irvine Maj  
President*

6.  
C 2

2nd Witness for Prosecution: WX 24 Captain Alfred Lawrence Johnston, 1st Aust Gen Hosp, being duly sworn is examined by the Prosecutor:

Pte Hardy was brought to the Camp Reception Station, Deir Suneid at about 2330 hrs on 15 Oct 40. He was suffering from the following injuries  
A 1 1/2" cut on the forehead, an 1/2" cut at the base of the nose, contused occiput, abrasions to the face, torsion injury to middle finger of right hand. A pronounced black eye  
Severe shock which might disguise other injuries  
Evacuated to A.G.H. on 17 Oct 40  
His injuries were consistent with him having been struck with a steel helmet and a boot.

Cross examination declined by Defending Officer

Questioned by the Court

I should say about eight blows were struck  
Hardy was too ill to move for three or four days, as he was being watched for fractured base of skull.

R.P. 83(b) observed. Witness withdraws

3rd Witness for Prosecution: Vx 10501 Pte William James Hardy, No 3 Coy Composite Training Regiment, being duly sworn is examined by Prosecutor:

On 15 Oct 40. I went to Pictures and then went to my tent approx 2120. Spoke to storekeeper for few minutes and then went to bed. Went to sleep. I was awakened by someone sitting on top of me. He had his hand underneath the clothes, feeling round my waist. I had on a pair of shorts, shirt and jumper and socks. I went to sit up, and I was knocked back. I recognise the man sitting on me as Charlie Streefkirk (indicates accused). I was knocked back several times. He grabbed a tin hat which was near the bed and used it on my head several times. He struck me. I saw a man standing near me with a boot. (indicates Gislingham) He struck me with the boot on the head. I called out for help. I had the fingers of my hand twisted. I was then struck more blows with the tin hat by Streefkirk. I do not remember what happened then. I next remember being in Hospital. I had £30 on my possession. I put it down my sock before I went to bed. I usually carried it in a money belt. I also had 1500 mils in <sup>the</sup> back pocket of my shorts I was wearing. I do not know what happened to it. I did not have it when I woke up in hospital. I knew the accused, Streetfkirk and Gislingham quite well before this.

*M.M.S.*  
*C. Def. off.*  
Cross examined by Defending Officer

I am not sure when the pictures finished on that night. I forgot what pictures were on. I was at the pictures. I got the money gambling mostly on the boat coming over. I had been here a fortnight. The tent was opened for about 2 ft and the doorway was open also I could not say how often I was punched that night. I do not know how many times I was struck with the tin hat. It was a full moon that night, I think. I felt blood on my head  
I recognised Streefkirk instantly I awoke, and Gislingham after I was punched, a few minutes after. He was standing on the left side of the bed.  
I gamble a good bit. I just called out "Help" as far as I remember.

*M. W. Irvine Maj.*  
*President*



Evidence of Pte Hardy(Cont'd)

W.M.I.

I was struck on the head with the boot, ~~XXXXXXXXXX~~ over my forehead, towards my nose

Questioned by the Court

W.M.I.

I have not won any money from either of the accused. The man was sitting straddled on me and facing me. It was quite light enough to see. The accused do not sleep in my tent. Gislingham was standing ~~XXXXXXXXXX~~ on the only occasion on which I saw him. I had been gambling that night. Before the pictures. The accused were not present. I won 2000 mils, I think. I was playing "two up" with pennies.

R.P. 83(b) observed. Witness withdraws.

4th Witness for Prosecution: VX 167 Capt Robert Henry de Gurney Nugent, No 3 Coy Composite Training Regiment, being duly sworn is examined by Prosecutor:

Def. Off objects (I can't allow question) W.M.I.

At about 2300 hrs 15 Oct 40, in consequence of report I received I went to the Sergeants tent in my Company Lines. I saw a soldier whom I know to be Pte Hardy. He was lying on the ground half in and half out of the tent, he was semi-conscious. He was bleeding from several wounds on the face and head. I went with Sgt-M Berry to a tent in my lines where I saw two men who were then under escort (Indicates accused Streefkirk and Gislingham) I said to Gislingham who is the taller of the two A man has been injured, do you know anything about it? He said "No" I then said Where Have you been for the last 20 mins. and both he and Streefkirk said "Asleep, I then said to him, "Hardy has told me that you two bashed him" and they both said "No, we dont know anything about it". I noticed when I came up to the tent that Streefkirk shirt was covered in blood I said "How did you come by the blood on you shirt?" He said, "I had a fight in the canteen" I then went over and touched his shirt with my finger and the blood was quite wet. Witness identifies shirt produced as belonging to Streefkirk (Exhibit "M") I then said to Sgt McTaggart who was with me, "Was there a fight in the canteen tonight" He said, It was a very quiet night". There was no fight" or words to that effect. I had the accused placed under close arrest and marched to the guard room. From there I went with S-M Berry and Taggart to Hardy's tent. All the inmates of the tent were standing up, about 6 or 7, talking very excitedly when we came in to the tent. I was shown Hardy's bed by S-M Berry. I found, roughly about the centre of the bed, a steel helmet (Identifies Helmet produced in Court Exhibit N) There were signs of general confusion and on the bed there were 2 kit bags (Exhibits "01" and "02"). The blood-stains on the bags were quite wet. Witness identifies boot produced in Court (exhibit "P") as the one found by him on top of the kit bags on the bed. Blood-stains on the heel of the boot were quite wet. The tent walls were splashed with blood. The pillow on the ~~right~~ bed about 4 ft to the right of Hardy's bed was also covered in blood. It was a very bright moonlight night, a full moon.

W.M.I.

W.M.I.

Cross examined by the Defending Officer

The moon at about 2305 was practically overhead. The sides of the tent were down except an opening for the door on the western end. The bed on which the kit bags was, was second from the door, about 4 ft from the door. The shirt (produced) had been in the orderly room since the morning after I took it from Streefkirk.

Questioned by the Court

W.M.I.

Gislingham was dressed in an overcoat, a shirt, and a heavily ribbed khaki pullover, no trousers, and boots and socks. Streefkirk was ~~XXXX~~ dressed in boots, shorts and shirt.

R.P. 83(b) observed. Witness withdraws

W.M.I. Louise May President



5th Witness for Vx 13666 Pte James Francis Cleland,  
 Prosecution: No 3 Coy Composite Training Regiment, being duly  
 sworn is examined by The Prosecutor:

16.11.40 On 15 Oct last, Hardy slept in the bed next to me. About 11  
 o'clock that night I was in bed asleep. I was awakened by a row  
 somewhere about 11 o'clock. I saw ~~Streefkirk~~ Streefkirk lying over the top  
 of Hardy hitting him on the head with a tin hat. I also saw  
 Gislingham lying half down, on his side, next to me, striking  
 Hardy with a boot, in the face. Hardy  
 Hardy and Streefkirk fell over on top of me, and Gislingham was  
 right on top of me, too. Then Hardy fell back into the corner of  
 the tent. Hardy was not speaking. Then a guard sang out in front of  
 the tent "What's that". ~~Streefkirk~~ Streefkirk rushed out and Streef  
 kirk rushed out after him. Hardy rushed out the back of the tent.  
 So the others came back to the tent and ~~Streefkirk~~ Streefkirk said,  
 "Where is Hardy" I said "He is gone" ~~Gislingham~~ Gislingham  
 Gislingham then said, "He is gone for the heads".  
 Gislingham said, "let us go" and then left in the direction of their  
 own tent. Capt Nugent and some Sgts then came to the tent which  
 was all over blood near Hardy's bed and I had blood all over me.

Cross examined by the Defending Officer

16.11.40 It was about ten minutes after I awakened that the guard called out.  
 I have had a good deal to do with the accused previously, they have  
 always been with us. I am friendly with Hardy. Very friendly.  
 I was playing "two up" that night.  
 I did not hear Hardy call out at all. Not then.  
 Gislingham was half lying near me. I actually saw the boot strike  
 Hardy's face. I recognised ~~Gislingham~~ Gislingham straight away. I could see him.  
 I have not discussed the incident. We were told not to.  
 I was very frightened that night. Very confused. I was so  
 frightened I just lay there.

Questioned by the Court

I took no steps to assist Hardy. I was frightened. Hardy is on my  
 left hand in the tent. Gislingham was lying on his left elbow  
 with the boot in his right hand.

R.P. 83(b) observed. Witness withdraws

6th Witness for VX 13104 Pte George Arthur Watson, No 3 Coy  
 Prosecution: Composite Training Regt being duly sworn is  
 examined by the Prosecutor:

16.11.40 On 15 Oct 40 I slept in the same tent as Hardy. At 2245 and 2300  
 hrs I was in the tent asleep and I was awakened by the shouts of the  
 sentry coming across from the direction of the curiosity shop to  
 the tent. I heard Hardy yell out "Murder". I saw ~~Streefkirk~~ Streefkirk a man  
 sitting astride Hardy, thumping at Hardy's head with some heavy  
 object in his hand. I saw another man sitting between Hardy and  
 Cleland's beds, crouched down. ~~Streefkirk~~ Streefkirk He was laughing fairly loudly  
 and from his laugh I recognised Gislingham who made a couple of  
 strikes towards Hardy's head with something in his hand. I do not  
 know whether the blows landed or not and I do not know what the  
 object in his hand was. When the sentry sang out "What is going on  
 there" they got up and ran out. As it was moonlight I could recognise  
 the men as they ran out. The men are in Court (identifies both  
 accused) They both returned to the tent and came in. I think  
 Gislingham asked, "Where is he?" Cleland answered "He is gone"  
 Gislingham said, "Come on Butch, they have gone for the Heads" or  
 words to that effect. They went over in the direction of their tent.

6th examined by the Defending Officer

The attack took about 2 minutes from the time I awakened.  
 I never left my bed at all. My bed is on the opposite side of the tent  
 to Hardy's. Directly opposite.

I took no steps to prevent the attack on Hardy.

R.P. 83 (b) observed. Witness withdraws



7th Witness for NX 8084 Pte Lawrence Lazarus  
 Prosecution: 1st Aust P~~oo~~ Coy, A.I.F. being duly sworn is  
 examined by the Prosecutor:

On 15 Oct 40 I was a member No 3 Coy Comp Tng Regt. I was prowler  
 picquet on that night in the company of Gatehouse. At about 2300  
 hrs I heard a cry for help. It came from a tent, and I proceeded  
 to where the tent was and I found Gislingham and Sreefkirk outside  
 the tent. There was no noise. They were laughing, and there was  
 some disturbance with the other sentry.

Cross examined by Defending Officer

The call I heard was "Help, help".  
 I could not see inside the tent Gislingham and Streefkirk came from.

R.P. 83(b) observed. Witness withdraws

8th Witness for VX 10427 Pte Alfred Riley Ridge, No 3 Coy  
 Prosecution: Composite Training Regt being duly sworn is  
 examined by the Prosecutor:

*M.M.S.*  
 On 15 Oct last I slept in the same tent as Hardy. My bed was on  
 the left of Hardy. ~~XXXXXXXXXXXXXXXXXXXX~~ I had been to the pictures  
 with Cleland and Hardy. Hardy went to bed with us. At about 2300  
 hrs I was awakened by Hardy screaming for help. I saw Streefkirk  
 practically lying on the top of Hardy with a steel helmet in his  
 hand. He was bashing Hardy with it around the head. I also saw  
 Gislingham there, he was over Hardy with a boot, striking him with  
 it, I could not say how many times, more than once. The picquet  
 came over and said, "What is going on?". Gislingham and Streefkirk  
 went out of the tent as the picquet came towards the tent and there  
 was a wordy battle with the picquet. They never came back. I heard  
 one of them say, "Come on, we had better go, they have gone" through  
 They then went away.

*M.M.S.*  
 The bags "O1" and "O 2" are identified as belonging to witness.  
 There were no marks on the bags before that night.  
 The bags were right alongside my bed, that night.

Cross examined by the Defending Officer

It was a good ten minutes from the time I awakened until the two  
 men left the tent.

I heard Hardy scream out "Help, help".

I was lying in bed with sand fly fever and a heavy cold.

I was well enough to go to the pictures although I had a heavy cold  
 and sand fly fever.

*M.M.S.*  
 I did not call out to the sentries because I thought that they had  
 heard Hardy call out. I arrived back at the tent at about 2120-2130  
 hrs. The programme was finished but I do not remember what was on.  
 I have not discussed this matter over at all.

Questioned by the Court

I was not gambling that night. Witness identifies accused.

There was quite sufficient light to make identification of the  
 accused possible.

R.P. 83(b) observed. Witness withdraws.

*M.M. Irvine Maj.  
 President*



9th Witness for VX 13609 Pte Edward Alexander Warnock, No 3 Coy  
 Prosecution: Composite Training Regt being duly sworn is  
 examined by the Prosecutor:

On 15 Oct last I was sleeping in the same tent as Hardy. I was in bed asleep at 2300 hrs that night. I was awakened by a disturbance on the other side of the tent. I saw Streefkirk sitting astride Hardy who was in his bed. Hardy was calling for help and struggling and Streefkirk had a steel helmet in his hand and appeared to be hitting Hardy with it. I saw Gislingham lying or crouching between Cleland and Hardy. He had a boot in his hand and he swung it in the direction of Hardy's head. I could not say whether the blow struck Hardy or not. Two guards approached the tent, and as they approached Gislingham and Streefkirk left the tent and walked towards the guard. After the disturbance, they came back, Streefkirk said, "Where is Hardy" Cleland said, "He is gone!" Gislingham said "We had better go through, He has gone for the Heads we had better go through!" There was little done outside the tent and they seemed to be laughing As they left the tent one of them passed the remark, "If anyone squeals it will be Cleland and we will fix him."

Cross examination by Defending Officer declined.

R.P.83(b) observed. Witness withdraws

10th Witness for NX 6482 A/C.S.M. John Patrick Berry, No 3 Coy  
 Prosecution: Composite Training Regt being duly sworn is  
 examined by the Prosecutor:

At about 2315 hrs on 15 Oct last I was awakened by Pte Hardy. I arose. Hardy was badly knocked about the face, he was bleeding profusely. He was semi-conscious. I sent a man for the M.O. and I went to the tent occupied by Gislingham and Streetfkirk. I know them well (Witness identifies accused in Court.) They were in bed. They appeared to be asleep. I flashed a torch in the tent and Gislingham appeared to wake first. I asked him what he had been doing and he told me that they had been since a quarter to eight. I do not remember the other accused speaking. I sent for Capt Nugent and left two guards on the tent. I pulled up Hardy's sock and with Sgt Sheldon counted some money, approx £P30 which we took therefrom. I returned to their tent with Capt Nugent, who told them to get up. Accused told him that they had both been in their tent since early that night. When Capt Nugent flashed his torch on the accused I noticed that Streefkirk's shirt was considerably bloodstained.

Questioned by the Court

I did not notice any signs of drunkenness about the two accused.

R.P. 83(b) observed. Witness withdraws

*M. M. Swaine May  
 President*



11th Witness for Prosecution: VX 13294 Sgt Leslie Albert McTaggart, No 3 Coy Composite Training Regt being duly sworn is examined by the Prosecutor:

*W.M.S.*  
About 2315 hrs on 15 Oct last I was awakened. I saw a person ~~xxxxxxx~~ come to the tent, moaning and the person then collapsed on the floor. I saw it was Pte Hardy. He had been badly battered about the face which was covered in blood. I accompanied Capt Nugent and others to Accuseds tent. (Identifies accused in Court.) They were both in bed. Capt Nugent called them out of bed and he asked them what they had been doing and they said they had been in bed. We then went to the tent occupied by Hardy.

Cross examination by Defending Officer declined

R.P. 83(b) observed. Witness withdraws.

12th Witness for Prosecution:

*W.M.S.*  
President

D

The prosecution is closed.

Defence.

Question to the accused.

Do you apply to give evidence yourself as a witness ?

Answer.

Yes

Question.

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

Answer.

Yes

Question.

Is he a witness as to character only ? Answer. Witness as to facts

INSTRUCTIONS TO THE COURT.

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

(Where any evidence is given for the defence.)

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

(Where the accused does not give evidence oath.)

Question to the accused.

Have you anything to say in your defence ?

Answer.

*M. M. L.*

The accused in his defence says †

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

*M. M. Irvine May  
President*

Instruction.

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



D 2

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

1st Witness VX 12918 Pte Robert Arthur  
for Defence: Gislingham, No 3 Coy Comp. Tng.  
Regt., being duly sworn is examined  
by the Defending Officer:

After mess on night of 15 Oct 40, I was in wet canteen with two other men and Streefkirk Charlie Andross, Pte Hodge and we had a fair amount of beer to drink. About 19.30 hrs Streefkirk left the canteen and came back. He left several times, and kept coming in and out. The canteen closed at 2100 hrs and we went to have a hair-cut with Pte Streefkirk. Four of us had a hair cut and we were there until 2145. The four of us were still together. Hodge and Andross went ahead and Streefkirk & I were behind. As we were passing Hardy's tent, I heard Hardy say, "I caught Butch with the dice". Butch is Pte Streefkirk. He said "It is a beauty and it cant miss" We then continued on to our own tent and went to bed. I got undressed excepting for a sleeveless pullover. We were talking about the dice and then Streefkirk got up and after a while I followed him. I saw him go into Hardy's tent and I followed a minute or so later. When I reached the door of the tent I saw two men standing up fighting. As I went into the tent, they fell on Hardy's bed. I sat on Cleland's bed. Then they rolled over on the top of me, some way. Then I heard the prowler say, "What is going on there!" The scuffle lasted only a matter of seconds. Then I went out to the prowler and Streefkirk followed. There was a wordy battle and then I went back to my own tent, with Pte Streefkirk.

Cross examined by the Prosecutor

I did not see Hardy before I entered his tent that night. Our tent is the next tent on the right from Hardy's. There was no light on in Hardy's tent. There was no answer to Hardys remark that he had caught Butch with the dice. We did not stop to listen to any further conversation. We were pretty full. I knew the statement referred to Streefkirk ~~and~~ but we did not stop. It was a fair while after that we got up. I suppose this dice was the main topic? Yes. Streefkirk got worked up about the remark We are close friends. Streefkirk said "I am going over to have a look at the dice. I did not know Hardy had any money on him. Did you know that Streefkirk lost 4000 mils to him that evening? Yes. He said "I will have a look at the dice and see whether I did my money crook". He did not express his intentions. They were on their feet fighting and went down almost immediately. The fight had just started. While I was there the tin hat was not used. I never saw it. ~~When~~ I was on Cleland's bed, sitting on the end of his bed. I had not lost any money. I was not in a frenzy. I had no interest in the money he had lost except that he was my friend. I went there to ~~xxxxxxstreefkirkxx~~ stop the fight, by just talking to Streefkirk. The fight did not last long enough for me to stop it. They fell on Cleland and me. I wanted to see the fight. The fight lasted only a short while. I was half asleep, when Streefkirk left the tent. I did not ask for Hardy. I told Capt Nugent that I knew nothing of the fight because I did not want to incriminate Streefkirk.

M.M.S.

M.M.S.

M.M.S.

M.M.S. Principal

Questioned by the Court

I did not use a boot on Hardy. I could not see how Hardy was dressed. Streefkirk face was not marked. He injured his hand.

## Evidence of Pte Gislingham(contd)

The laughter took place when the picquet came along.  
I did not have any word with the picquet.  
There was not much noise at all, except that they fell over,  
and someone called out for help. I thought it was Hardy.

R.P. 83(b) observed. Witness withdraws.

*W. M. Louie Maj*  
*President*



2nd Witness VX 13103 Pte Cornelius Streefkirk, No.3 Coy.  
for Defence: Comp. Tng Regt. being duly sworn is examined  
by the Defending Officer:

The evidence given by Gislingham as to our movements after mess on 15 Oct 40 until we went to bed in our tent is true.

On going to Hardy's tent I walked into the tent and said something to Hardy.

Gislingham came into the tent about 2 minutes after I did. I was fighting with Hardy then.

Gislingham was on the bed with Cleland, on Cleland's bed. Hardy and I were fighting on the ground both punching one another. Gislingham got up and walked out and I followed him after I threw Hardy onto the corner.

Gislingham was in the tent a matter of seconds.

I did not see Gislingham do anything while he was in the tent.

Cross examined by the Prosecutor

I saw Hardy at the canteen on the night of 15 Oct about 5 past 4. I did not hear anyone answer the remark made by Hardy. I knew the remark referred to me, but I did not stop to listen to anything else. I did not consider that it needed investigation on my part. It was half an hour after I was lying in my tent that I decided to investigate.

For over half an hour Gislingham and I talked the matter over. I finally decided to go over to his tent because I knew that he had had bad dice on the ship.

It was the result of my conversation with Gislingham that decided me to go across to Hardy's tent.

I was practically talking to myself for the half hour, and working myself up into a frenzy.

I knew that Hardy had several friends in his tent but I did not anticipate trouble with them, because they are a lot of curs, even if I had to get possession of the dice by other than persuasive means. I did not invite Gislingham to go with me. He arrived at the tent a couple of minutes after me, fully awake.

Hardy was awake, in bed and when I challenged him for the dice.

~~XXXXXX give us a look at those dice XXXXX~~  
He got up out of bed and I ~~xxxxxx~~ spoke to him and he replied and I grabbed him by the front of his shirt and I punched. I saw Gislingham at the door of the tent at this stage. Hardy retaliated. We were on our feet for three or four punches and then went to the ground in a clinch. As I was getting up he punched me and I carried on with him on the ground. I only used my fists. Gislingham was squatting on Cleland's bed. He was sitting there while we were on the ground.

There were 3 or 4 punches on the ground then we rolled over the top of Cleland's bed and then I threw him into the corner.

We were very close to Cleland's bed, alongside it. Gislingham was also right alongside us. Gislingham could not have struck at Hardy's head as he was near the foot of Cleland's bed.

Gislingham did not make any attempt to stop the fight

I knew Hardy had some money of his own apart from what he had won from me. He had a handful of hundred mil pieces.

Hardy had called for help before I threw him in the corner. His resistance was practically finished. Hardy hit me several times in the face, ear and neck. I never touched his finger. I cannot account for the finger injuries as told by the M.O.

The blood around the tent was caused by the punches.

I told Capt Nugent that I had not seen Hardy because I tried to get out of it. I did not think Hardy would be damaged very much.

The reason I lied to Capt Nugent was that I did not want him to know what Hardy was like.

I was not prepared to admit that I had seen Hardy even after he had pointed out the bloodstains on my shirt. Gislingham and I have had no discussion on the matter since,

Questioned by the Court

When I said that I was in a frenzy I meant that while I was lying in the tent thinking about the dice I got more and more excited and

*W.M.L.  
W.M.L.*

Evidence of Streefkirk (cont'd)

and more and more annoyed.

Before reaching Hardy's tent I had determined to use force on Hardy in the event of his refusing to hand over the dice to me.

R.P. 83(b) observed. Witness withdraws.

*W. M. Irvine May  
President*



28

CC

### Proceedings on Plea of Guilty.

\* To be struck out in case no plea of "Not Guilty" has been proceeded with.

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

The accused ~~VX~~ 13103 Pte Cornelius Streefkirk is found guilty of the first charge

*to the*

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

Question to the accused.

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

Answer. No.

The accused in mitigation of punishment says:—

*to the*

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

*H. M. Devine Maj.  
President*

Instruction.

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

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

(4)

DD

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

No.

*Question to the accused.*

*Answer.*

*Evidence as to character.*

*W. M. Laurie Maj.  
President*



Trial commences	Thu 14 Nov 1000 hrs
Court adjourns-Application of Defence for time to interview accused	1015 hrs
resumes -	1045 hrs
Court adjourns-Application of Defence for separate trial	1100 hrs
resumes-	1130 hrs
adjourns-Lunch	1230 hrs
resumes -	1330 hrs
adjourns-On account of Light	1635 hrs
resumes -	Fri 15 Nov 0935 hrs
adjourns-Lunch	1230 hrs
resumes -	1330 hrs
closed -	1550 hrs

*After each accused had pleaded, the trial of Bislingham has proceeded with up to conviction before <sup>further</sup> steps were taken in the trial of Streykirk.*

*M. M. Irvine May  
President*

*M. M. Irvine May  
President*

Address by Prosecutor

Dealing first with the major charge - certain elements requiring proof  
Wounding unlawfully and maliciously with intent to do grievous bodily harm - any act of wounding would be unlawful-  
Maliciously wounding not necessarily with malice aforethought- any act committed without lawful excuse would be malice.

Wounding- embodies breaking of skin- see M.O's. evidence as to description of wounds.

Intent- if person wounds another whether lawfully or unlawfully he must intend to take consequence of that act

Grievous Bodily Harm- not necessarily permanent or dangerous- sufficient if seriously interferes with health or comfort- Archbold p.940

Very difficult to prove intent- Court should consider proved if circumstantial evidence and evidence to support same.

General rule to take natural and probable consequence of own act.

Accused Gislingham used boot toward Hardy- caused him grievous bodily harm

Touching 2nd charge- Intent - Open to Court to bring in verdict of unlawful wounding - intent not a material element.

As regard 3rd charge- assault with intent to rob- not necessary to show Gislingham committed any actual violence-Defence satisfied Gislingham present when Streefkirk committed acts of considerable violence- Gislingham present to assist Streefkirk if necessary-

Admitted that object of visit was to forcibly obtain possession of dice-crooked dice or not, immaterial- Streefkirk had no right to take dice by force nor take the money he had lost- that was intention of visit- and Gislingham was there-Why?

Gislingham half asleep for 1/2 an hour yet followed Streefkirk to Hardy's tent- Reason - wanted to assist Streefkirk as Hardy had several friends in tent.

Intent can be proved- Time and place and evidence of exactly what took place

Generally, dealing with the 3 charges- another aspect- whether Gislingham was not an accessory or adviser before the fact

Archbold 1436-1438

Ample evidence to convict Gislingham on 1st charge- 4 men and Hardy give direct evidence Gislingham struck or aimed blow with a boot- Inconsistency small details makes case stronger- Streefkirk describes witnesses as curs- again adds strength to case-

Only true evidence Gislingham and Streefkirk-gaps- prosecution witnesses fill in gaps.

Gislingham's intention stop fight-arrived at commencement fight didnt stop same- didnt follow Streefkirk to stop fight-

No truth in story of dice- neither Hardy nor other witness examined by D.O. re dice or conversation re dice.

Gislingham and Streefkirk did not stop when they heard "Butch" (Streefkirk) robbed by Hardy crooked dice- went to, own tent and stayed there 1/2 hour.

Object of visit to take money from Hardy-knew he had money- Streefkirk astride Hardy-used implements-thought they would be safe "If any one squeals it will be Cleland and we will fix him"-others would not speak- Crook dice all fabrication.

Unlawful assault- Gislingham-boot-Streefkirk-steel helmet- accomplices and guilty in same degree.

*H.M. Irvine  
Mag.  
President*

Finally- it is on the Prosecution to bring out sufficient facts to prevent like occurrence in A.I.F.- Court should convict all charg-



Address by Defending Officer

On first charge Prosecution must prove-

1. That Hardy was wounded- using the word in its technical sense.
2. That the accused had a prior intent to wound
3. That the accused actually did Hardy greivous bodily harm
4. Malice must be proved - intention of doing greivous bodily harm

Submit that Prosecution has failed tp prove any of above particulars. In any event, if any one of the above particulars not proved, charge must fail.

Similar considerations apply to 2nd and 3rd charges. With regard to 3rd charge, an extra submission that there is no proof of an intention to rob- it is necessary to prove that accused had prior knowledge of possession of money or property.

Credibility- all witnesses for Prosecution in their evidence used the same catch phrases and Court might reasonably deduce thatevidence had been concocted.

*W.M.I.*

Reasonable doubt- Accused gave evidence on oath-denied taking part in assault and Speefkirk corroborated- Court should give accused benefit of doubt

*W. M. Louis May  
President*





E

Finding.\*

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

The Court is closed for the consideration of the finding.

The Court find that the accused.

Australian VX 12918 Pte Robert Arthur Gislingham, No 3 Coy, 6th Composite Training Regiment is

Guilty of the 1st Charge  
Not Guilty of the 2nd Charge  
Not Guilty of the 3rd Charge

Australian VX 13103 Pte Cornelius Streefkirk, No 3 Coy, 6th Composite Training Regiment is

Guilty of the 1st Charge  
Not Guilty of the 2nd Charge  
Not Guilty of the 3rd Charge

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

Question by the President.

PROCEEDINGS ON CONVICTION before Sentence.

\*The Court being re-opened, the accused is again brought before it. VX 167 Capt Robert Henry de Gurney Nugent, No 3 Coy Composite Training Regiment is <sup>duty sworn</sup> on his former oath gives the following evidence

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

A.A.F'S 44 (produced) <sup>examined</sup> with the schedule of convictions and of cases in which trial has been dispensed with <sup>is</sup> read, marked "MM1" or "MM2", signed by the President, and annexed to the proceedings.

Question by the President.

Are the accused the persons named in the statement which you have heard read? Answer by the Witness. Yes

Question.

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

Question.

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

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

*cross examination declared.*

Question to the accused.

Do you wish to address the Court? Answer. No

The Court is closed for the consideration of the sentence.

(5)

*W.M. Devine May President*

F

Sentence.

The Court sentence the accused

Sentence

VX 13103 Private Cornelius Streefkirk, No 3 Coy, 6th Australian Composite Training Regiment to

1/ Discharge from the Defence Force of the Commonwealth of Australia.  
2/ To be imprisoned with hard labour for two years.

VX 12918 Private Robert Arthur Gislingham, No 3 Coy, 6th Australian Composite Training Regiment to

1/ Discharge from the Defence Force of the Commonwealth of Australia.  
2/ To be imprisoned <sup>to full</sup> with hard labour for two years.

M. M. Irvine  
Major.  
President.

Deir Suneid  
15 Nov 40.

Confirmed.

Signed at GAZA this sixth day of December, 1940.

*E. D. Blaney*

LIEUTENANT-GENERAL,  
GOC., 1 AUST ARMY CORPS  
AUSTRALIAN IMPERIAL FORCE.

The sentence of imprisonment was published in Regt. R.O. No. 76, 17 Dec 40 and in Special Order No 1, 17 Dec 40 and promulgated to the two accused by the Commandant, 1 Aust. Wd. Barracks, Jerusalem on 21 Dec. 40.

*R. H. Hutcheon* LT. COL.  
C.O.  
COMP. TNG. REGT.

The sentence of discharge from the Defence Force of the Commonwealth of Australia was promulgated to each of the accused at Pentridge Gaol Geelong, Victoria on 2<sup>nd</sup> day of March 1942

*W. E. H. Smith*

Officer in charge of *...* 471 23805



24.

6 Aust Comp Tng Regt.  
Anderson Lines.  
Deir Sunaid.

15 Nov 40.

I certify that the accused V.X. 12918 Pte  
GISLINGHAM R.A.

Is fit to undergo trial by courtmartial.

Dated this day 15. November 1940.

*[Handwritten Signature]*  
..... Signed.  
*Capt. [Name]*

*W. M. Louine Maj.  
President*

25.

6 Aust Comp Tng Regt.  
Anderson Lines.  
Deir Suneid.

14 Nov 40.

L certify that the accused V.X. 12918 Pte  
GISLINGHAM R.A.

Is fit to undergo trial by courtmartial.

Dated this day                      November 1940.

*Deir Suneid*  
.....signed.  
*Capt. M. M. M.*

*W. M. Lawrence Maj.*  
*President*



26 -

6 Aust Comp Eng Regt.  
Anderson Lines.  
Deir Suneid.

15 Nov 40.

I certify that the accused V.X.15105 Pte  
STREMPKIRK CORNELIUS.

Is fit to undergo trial by courtmartial.

Dated this day 15 of November 1940.

*[Handwritten Signature]*  
.....Signed.

*Capt. Arthur*

*W. M. Irvine Maj.*  
*President*

27

6 Aust Comp Tng Regt.  
Anderson Lines.  
Deir Suneid.

14 Nov 40.

I certify that the accused V.X.13103 Pte  
STREEFKIRK CORNELIUS.

Is fit to undergo trial by courtmartial.

Dated this day of November 1940.

*Deir Suneid*  
.....Signed.  
*Capt. Ashme*

*M. M. Louis Wg.*  
*President*



AUSTRALIAN



MILITARY FORCES.

# STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

\*No. Rank and Name.

\* V.X. 13103 Pte STREBLIKIRK CONNELL.

†Regt. or Corps.

of the † 6th Aust Composite Training Regiment.

NOTE. — The Squadron, Battery or Company Conduct Sheet is to be laid before the Court with this statement, but is not to be annexed to the proceedings.

1. The following is a fair and true summary of the entries in the Regimental and [Squadron, Battery or Company] Conduct Sheets of the accused, exclusive of convictions by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and Australian Military Regulations 267, 268, and of cases in which trial has been dispensed with:—

\*The numbers herein stated should correspond with the number of Entries in the Conduct Sheet, prominence being given to the most serious offence in each entry.

\*Within last 12 months.

\*Since enlistment.

For ~~For Insubordinate language to his Superior Officer.~~ times One times

For ..... times ..... times

For ..... times ..... times

For ..... times ..... times

Number of instances of gallantry or distinguished conduct NIL

or,

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

2. The accused has not been previously convicted.

or,

Previous convictions of the accused by a court-martial or a civil court, summary awards under Section 47 of the Army Act and Australian Military Regulations 267, 268, and dispensations with trial under Section 73 of the Army Act and Australian Military Regulation 279 are set out in the schedule annexed to this statement.

"MMI"



3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for.....

..... beginning on the..... day of.....

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

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

6. The date of his commission specified in his record of service is.....  
attestation attestation paper

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

8. The accused is in possession of, or entitled to, no military decoration or military reward which the Court can forfeit [~~or is in possession of, or entitled to~~]

†State here any military decoration or reward which the Court can forfeit.

9. (If the accused is a warrant officer). The accused before he was a warrant officer last held the regimental rank of.....

10. (In the case of an officer). The accused holds in the army the rank of..... dated..... and in his regiment [or corps or department] the rank of..... dated.....

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

Date of promotion—

In the rank of....., ..... years,.....

In the rank of....., ..... years,.....

In the rank of....., ..... years,.....

[NOTE.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through.]

The above statement [with the Schedule of convictions] is read, marked....., signed by the president, and annexed to the proceedings.



**Schedule of Convictions by a Court Martial or Civil Court, of Summary Awards under A.A.47 and**

**A.M.R.'s. 267, 268 and of cases in which trial has been dispensed with of accused,**

6146  
no 2150

Number, Rank, and Name.....of the.....

*NOTE.—A verbatim extract from the regimental books, stating these convictions, must be inserted.*

Description of Court by which tried.	Date and Place of Trial.	Charges upon which Convicted.	Sentence of the Court.	Punishment Remitted.
<small>Description of Court</small> 1940, 1st Lt, 2nd Bn,		<small>Charges upon which convicted</small> ...	<small>Sentence of the Court</small> ...	<small>Punishment Remitted</small> ...

COURT REPORT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which Convicted.	Sentence of the Court.	Punishment Remitted.

I hereby certify that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this fifteenth day of February 1864 at Fort Mifflin in the County of Delaware State of Delaware  
Lieut. Col. Wm. Mendenhall

NAA: A471, 23805



AUSTRALIAN



MILITARY FORCES.

# STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

\*No., Rank and Name. 1177 19316 Pte. CHRISTIAN ROBERT ARTHUR

†Regt. or Corps. of the 1st Composite Training Regiment

NOTE. — The Squadron, Battery or Company Conduct Sheet is to be laid before the Court with this statement, but is not to be annexed to the proceedings.

1. The following is a fair and true summary of the entries in the Regimental and [Squadron, Battery or Company] Conduct Sheets of the accused, exclusive of convictions by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and Australian Military Regulations 267, 268, and of cases in which trial has been dispensed with:—

\*The numbers herein stated should correspond with the number of Entries in the Conduct Sheet, prominence being given to the most serious offence in each entry.

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

	*Within last 12 months.	*Since enlistment.
For <u>Absent without leave</u> .....	<u>one</u> times	<u>one</u> times
For <u>Creating a disturbance</u> .....	<u>one</u> times	<u>one</u> times
For .....	..... times	..... times
<del>For .....</del>	<del>..... times</del>	<del>..... times</del>

Number of instances of gallantry or distinguished conduct..... IIII

or,

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

2. The accused has not been previously convicted.

or,

Previous convictions of the accused by a court-martial or a civil court, summary awards under Section 47 of the Army Act and Australian Military Regulations 267, 268, and dispensations with trial under Section 73 of the Army Act and Australian Military Regulation 279 are set out in the schedule annexed to this statement.

"MM2"



34

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for.....

.....beginning on the.....day of.....

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

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

6. The date of his commission specified in his record of service is.....attestation paper

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

8. The accused is in possession of, or entitled to, no military decoration or military reward which the Court can forfeit [~~or is in possession of, or entitled to~~]

†State here any military decoration or reward which the Court can forfeit.

9. (If the accused is a warrant officer). The accused before he was a warrant officer last held the regimental rank of.....

10. (In the case of an officer). The accused holds in the army the rank of.....dated.....and in his regiment [or corps or department] the rank of.....dated.....

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

Date of promotion

In the rank of.....,.....years,.....

In the rank of.....,.....years,.....

In the rank of.....,.....years,.....

[NOTE.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through.]

The above statement [with the Schedule of convictions] is read, marked....., signed by the president, and annexed to the proceedings.









CASE AGAINST ACCUSED

1st. Witness Against Accused.

V.X.167 Captain Robert Henry <sup>Gurney</sup> de Gwinc~~y~~ Nugent,  
No.3 Coy. Composite Training Regiment. being  
duly sworn gives the following evidence:

At about 2305 hrs on 15 Oct 40 I was called from my tent by a sergeant of my company, who requested me to come to the lines to see a man who had been badly injured. On arriving at the lines I saw Pte Hardy lying on the ground at the entrance to a tent. His face and head were badly battered and bloodstained. I asked him what had happened, and in consequence of what he told me I instructed the Sgt. Major <sup>James</sup> to take me to a tent.

Outside the tent I saw two men who I now know as the two accused, Streefkirk and Gislingham. Streefkirk was fully dressed. Gislingham was dressed in a shirt Khaki sweater, underpants, boots and socks and overcoat. I said "A man has been injured. Do you know anything about it?" They both said "No". I asked them where they had been in the last 20 minutes. They both replied "Asleep".

I looked at Streefkirk and could see bloodstains on his shirt. It was a bright moonlight night. I came close to him and put my torch on him. I said "where did you get these bloodstains?". He said " I had a fight in the canteen". The sergeant in charge of the canteen piquet was with me and I said to him, " Has there been a fight in yhe canteen tonight ?". He replied "No Sir". I said "Hardy has told me that you two came to his tent to steal his money. He woke up and the two of you took to him and bashed him." They both denied all ~~knowledge~~ knowledge of it saying they had not been in Hardy's tent but had been asleep. I then placed them under close arrest and they were removed to the guardtent . I followed and took possession of Streefkirk's shirt which I now produce. I then went to Hardy's tent and on Hardy's bed I found empty wallet and a steel helmet and a boot. The crown of the helmet was covered in blood and in two places on the rim were bloodstains.

Ex. A.

Ex B. <sup>Spreads</sup>

Ex C.

Ex D.

Also the steel helmet.  
Also the boot, the bedclothes, two kitbags and the tent were considerably bloodstained. One bloodstain in the corner of the tent was nearly two feet square.  
I produce the two sea kit bags.  
I made enquiries and in consequence of them I laid the charges against the accused.  
Both men were perfectly sober.

Cross-examined by the accused Streefkirk;

- Q. On the night in question at the time I was placed under arrest did I have any boots or socks on?.
- A. I am not prepared to swear that you had socks on but you had either boots or shoes.

Witness does not say anything by way of re-examination.  
His evidence is read over to witness.

" L "

*Robert Nugent*  
.....  
Signature of witness.

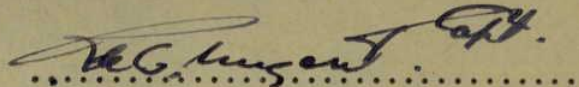
Cross examined by the accused  
Gislingham.

Q. Did I not only have on a pair of boots without  
socks, a sleeveless pullover and an overcoat?  
brown

A. No, you had on a shirt, sleeveless pullover  
boots and socks and underpants and overcoat  
You pulled your overcoat open and said I cannot  
go across to the guard tent like this. I could  
then see quite plainly what you were wearing.

Witness does not say anything by way of re-examination.

This evidence is read over to witness.

  
.....  
Signature of witness.



2 Witness against accused.

N.X.6482 A/C.S.M. John Patrick ~~Berney~~ of No 3 Coy Composite Training Regiment, being duly sworn gives the following evidence.

At approximately 2315 hrs on the night 15 Oct 40 I was awaked by Pte Hardy who was standing by my bed calling for me.  
He then collapsed alongside my bed.  
I jumped out of bed and Sgt Sheldon and I examined Hardy and I saw that he had been badly cut about the face.

He was in a semi-conscious condition.  
He told me something and I immediatly sent a man for the R.M.O. and I went to a tent which was occupied by the two accused, Streefkirk and Gislingham.  
They were both in bed and appeared to be asleep.  
I placed two sentries on the tent and sent Sgt Hall for Capt Nugent.

The two accused woke up, when I flashed a torch into the tent, I asked Gislingham, who woke first, what he had been doing.

He told me he had been in bed since 1/4 to eight.

I returned to my tent. Hardy was there.

At his request I took one of his socks off and Sgt Sheldon counted out £30 in Australian and Palestinian notes, ~~and~~ a polish note to approximate value of 10/-.

All of this money was later handed over to Capt Nugent.

Capt Nugent came to my tent and examined Hardy.

Capt Nugent, Sgt Sheldon and I the went to the accused tent I think the accused were still in bed.

They got up.

Gislingham was dressed in a greyish sweater only.

Streefkirk was dressed in a khaki shirt, and slacks

I don't remember if he had boots or socks on.

Capt Nugent asked them what they had been doing.

They both replied that they had been asleep.

Capt Nugent flashed his torch on both men and I saw that the shirt that Streefkirk was wearing was bloodstained.

Capt Nugent ordered me to place both men under close arrest which I did.

Capt Nugent, Sgt Sheldon and I went to Hardy's tent.

I there saw the sides of the tent, and personnel effects of Hardy and Pte Cleland, who sleeps alongside him. considerably bloodstained.

A steel helmet and a boot were taken possession of.

I recognise Exhibits B.&C. as the helmet and boot.

We then went to the guard tent and I saw Sgt Sheldon at Capt Nugent's order, remove the bloodstained shirt from Streefkirk.

I recognise Ex A as the shirt.

Cross-examination by the accused Streefkirk.

Accuse declines to cross-examine.  
His evidence is read to witness.

*J. Kelly*  
\_\_\_\_\_  
Signature of Witness.

2/.

Cross-Examined by the accused Gislingham.

Accused declines to cross-examine.

His evidence is read to witness.

*J. P. Berry*  
.....  
Signature of witness.

National Archives of Australia

NAA: A471, 23805



3. Witness against accused.

V.X.13609 Pte Edward Alexander Warnock No 3 Coy  
Composite Training Regiment. being duly sworn  
gives the following evidence.

On the night of 15 Oct 40 at about 2300 hrs I was  
awaked by someone calling for help.  
In the tent in which I sleep were Ptes Hardy, Ridge, Roberts,  
Christie, Watson and Cleland.  
It was Hardy who was calling out, I sat up.  
I saw Streefkirk sitting astride Hardy who was lying on his  
bed. Streefkirk was hitting Hardy with a steel Hat  
Gislingham was lying between Hardy and Cleland  
and he was swinging a boot at Hardy.  
He was holding it by the toe.  
I was jumping up when a sentry approached the tent.  
I saw Streefkirk grab the sentry's rifle.  
The sentry grappled it back, I heard Streefkirk  
and the sentry talking loudly about fighting it out in the  
morning.  
Streefkirk and Gislingham came back to the tent  
and Streefkirk asked if Hardy were there.  
Cleland said "He's gone".  
I didn't see Hardy leave the tent.  
Gislingham said "He's gone for the heads we'd better  
go through".  
They then left.  
I was in the tent when Capt Nugent, C.S.M. Berry,  
Sgt Sheldon and Sgt MacTaggart came.  
There was a considerable amount of blood on the tent  
and on articles in it.

- Cross-examined by the accused Streefkirk. ✓

' Accused declines to cross-examine. ✓

. His evidence is read to witness. ✓

*Laughing = whilst hitting Hardy*

*Ed Warnock*  
.....  
Signature of Witness.

5/.

Cross-Examined by the accused Gislingham.

Q. Was the fighting taking place on Ridge's bed?

A. No.

Q. Did you see me strike Hardy with a boot?

A. I saw you swinging a boot in Hardy's direction but I could not say if the boot struck Hardy.

Q. What clothes did I have on?

A. You had on only a guernsey. You did not have any pants on.

Q. Did I appear to be under the influence of liquor?

A. By your laughing you sounded as if you had had drink but I would not be prepared to say whether you drunk.

Witness does not say anything by way of re-examination.

His evidence is read to witness.



Signature of witness

National Archives of Australia

NAA: A471, 23805



4th Witness against accused.

V.X.10427 Pte Alfred Riley Ridge, No 3 Coy Composite Training Regiment. being duly sworn gives the following evidence

On the night 15 Oct 40 at about 2300 hrs I was asleep in my tent.  
I was awaked by someone calling for help.  
It was Hardy.  
I was not well at the time, I had fever and a cold  
I saw two men who appeared to be lying on top of Hardy who was on his bed.  
I recognised the two men as Streefkirk and Gislingham  
Streefkirk was hammering Hardy with a steel helmet.  
Gislingham was hitting him with a boot.  
It continued for a few ~~minutes~~ minutes after I woke up.  
A sentry came over to the tent and the two accused got up and went over to the sentry.  
I saw Streefkirk make a swing at the sentry and try to take his rifle from him.  
There was a wordy battle for 3 or 4 minutes.  
I heard Gislingham say "They've gone for the heads we'd better go through."  
They went away.  
Capt Nugent and some Sergeants came to my tent.  
There were bloodstains around the tent.  
I knew that Hardy had a lot of money as that day he had showed me a roll of notes.  
The two white kit bags now showed to me (Ex D) are my property.  
They did not have any bloodstains on them before the occurrence.  
They were lying on the ground alongside my bed.

Cross-examined by the accused Streefkirk.

Witness declines to cross-examine.

His evidence is read over to witness.

.....*A. Ridge*.....  
Signature of Witness.

4/.

Cross-Examined by the accused Gislingham.

Q. Did you actually see me hit Hardy with the boot.?

A. Yes.

Q. Did I appear to be under the influence of drink?

A. No.

Witness does not say anything by way of re-examination.

His evidence is read to witness.

*A. Pudge*

.....  
Signature of witness.



5th Witness against the accused.

*Hardy's bed on right hand side of witness? left hand*

V.X.13666 Pte James Francis Cleland. No 3 Coy Composite Training Regiment being duly sworn gives the following evidence.

At about 2315 hrs on 15 Oct 49 I was awakened by a row in in my tent, Pte Hardy sleeps next to me.  
I saw Gislingham lying on his side between Hardy and me striking Hardy with a boot.  
I also saw Streefkirk lying over the top of Hardy ~~striking~~ belting him with a steel helmet.  
Hardy and Steefkirk rolled back on to my bed.  
Hardy was pushed off by Streefkirk into the corner of the tent. A piquet called out "Whats that".  
Gislingham went out and Streefkirk followed.  
I heard Streefkirk call the piquet a Copper and saw him grab the sentry's rifle.  
The sentry pulled it back. There was loud talk between them and I heard talk of them fighting it out in the morning.  
Hardy went out of the back of the tent while this was going on.  
Streefkirk and Gislingham came back to the tent and Gislingham asked where Hardy was.  
I said "He's gone".  
Gislingham said "Lets go theyve gone for the Heads".  
They then left.  
Captain Nugent and some Sergeants came down to the tent later.  
I know Hardy had quite a lot of money as I saw him with a roll of notes that day.  
My bed had blood on it and there was quite a lot blood on the tent after the affair.

*On floor how could the noise.*

Cross-Examined by the accused Streefkirk.

Accused declines to cross-examine.

His evidence is read to witness.

*How long process 10 minutes*  
.....  
*James F. Cleland*  
signature of witness.

*What did you do to stop fight?*  
*They fell over me - but one was lying down*

*Hardy rushed out back of tent.*

*Streefkirk*  
*Identify.*

5/.

Cross- Examined by the accused Gislingham.

Q. Are you sure you saw me strike Hardy with a boot?

A. Yes.

Witness does not say anything by way of re- examination.

His evidence is read to Witness.

.....  
*John C. ...*  
Signature of Witness.



4th Witness against the accused.

V.X.13104 Pte George Arthur Watson No 3 Coy Composite Training Regiment. being duly sworn gives the following evidence.

Between 2245 hrs and 2300 hrs 15 Oct 40 I was awakened by a sentry running across to our tent calling out "What's going on here" or words to that effect.

I heard yells from Hardy.

I saw a man who I recognised a few minutes later as Streefkirk sitting over the top of Hardy thumping Hardy with something heavy.

I couldn't see what it was. I saw Gislingham whom I recognised by his voice and his laughing at the time.

He was sitting practically on Cleland's bed.

He made a couple of hits at Hardy with something.

I don't know what it was. They both jumped up and ran out to the sentries I saw Streefkirk attempt to take the rifle from the sentry but the sentry pulled it away from him.

There was an argument and I heard Streefkirk say he'd put it down in his book and shoot it out with him in the morning.

Both Streefkirk and Gislingham came back to the tent and Gislingham said "Where is he" Cleland said "He's gone" Gislingham said "Go through before the heads come" or words to that effect.

They then left.

Shortly after Captain Nugent, Sgt Major Berry, Sgt Hall and another Sgt came to the tent.

*Not by me  
when he  
could not  
see in the  
tent.*

Cross-Examined by the accused Streefkirk.

Accused declines to cross-examine.

His evidence is read to witness.

*GA Watson*

.....  
Signature of Witness.

6/.

Cross-Examined by accused Gislingham.

Q. Did you actually see me strike Hardy?

A. I did not see you strike Hardy But I saw <sup>you</sup> strike in ~~that~~  
his direction.

Witness does not say anything by way of Re-Examination.

His evidence is read to witness.

*Y. B. Wilson*

.....  
Signature of Witness.



7th Witness against the accused.

*Rel. 7.8*  
V.X.13294 Sergeant Leslie Albert McTaggart No 3 Coy  
Composite Training Regiment. being duly sworn gives  
the following evidence.

At about 2315 hrs 15 Oct 40 I was awakened by a man who was moaning and calling out "Jack Berry" coming to the Sergeants' tent in which I sleep. One of the Sergeants asked the man what was wrong, and the man collapsed on the ground. He appeared to be unconscious. I got up. The man was badly battered about the face and was almost unrecognisable. I saw it was Pte Hardy. The man could only moan two names in answer to questions put to him by S.M.Berry. S.M.Berry sent for the R.M.O. and Capt Nugent. The R.M.O. arrived and sent Hardy to the C.R.S. Captain Nugent arrived before this and I with others accompanied him to a tent occupied by the accused, Streefkirk and Gislingham. They were roused out of bed and came outside the tent. Streefkirk had on shorts and a shirt. I cannot say if he wore boots or socks. Gislingham had a pullover on, but no trousers or under-pants. I do not remember if he wore boots or socks either. Capt Nugent asked the two men what they had been doing and how long they had been in bed. They said they had been asleep. Capt Nugent then put them under close arrest and they were taken to the guard house. I then went with Capt Nugent and other Sgts to the tent Hardy occupied. *Rel. 7.7.* ~~Capt Nugent took possession~~ I saw his bed was covered in blood at the head. Capt Nugent took possession of a boot and two tin hats I can recognise Exhibits C.&B. as the boot and one of the tin hats. There was blood over the walls of the tent. We then went to the guard house. Capt Nugent ordered a shirt with bloodstains on it to be removed from Streefkirk. This was done by Sgt Sheldon. I recognise Ex A as the shirt. We then went to enquire as to Hardy's condition.

Cross-examined by accused Streefkirk.

Accused declines to cross-examine.

His evidence is read to witness.

*L. A. M. Taggart*  
.....  
Signature of witness.

7.

Cross-Examined by accused Gisltingham.

Accused declines to cross-examine.

His evidence is read to witness.

*R. J. Miloscat*  
Signature of Witness.

National Archives of Australia

NAA: A471, 23805



8th Witness against accused.

N.X.12977 Sgt Stanley Sheldon No 3 Coy Composite Training Regiment. being duly sworn gives the following evidence.

At about 2315 hrs on 15 Oct 40 I was awakened by a man calling out "Berry" He was approaching our tent. I got out of bed and by this time the man had arrived at the tent entrance. He called out "Is this Jack Berry's tent"?

He then collapsed just inside the tent, other Sgts had awakened. I recognised the man as Pte Hardy. He was badly battered about the face and was covered with blood.

I questioned him but received no intelligible reply. He appeared to be in a semi-conscious condition. He was muttering two names.

C.S.M. Berry then sent for Capt Nugent and the R.M.O. Hardy seemed to become conscious while waiting for them to arrive.

In consequence of something Hardy said I took off one of his socks and took £30 in Australian and Palestian notes, a 500 Mills note and a 10/- Polish from it.

C.S.M. Berry had left the tent. Capt Nugent arrived and looked at Hardy.

An orderly arrived, looked at Hardy and left for the Ambulance.

I then left the tent With Capt Nugent, C.S.M. Berry, Sgt McTaggart and two prowler sentries and went to the tent occupied by Streefkirk and Gislingham.

They were in the tent.

I did not go in.

They were ordered out by Capt Nugent.

He asked them what they had been doing.

They both replied that they had been asleep.

Capt Nugent flashed a torch on them, There were bloodstains on Streefkirk's shirt.

Capt Nugent immediatly instructed me to take the two men to the guard tent under close arrest.

I did this and handed them over to the Sgt of the guard.

I then went to a tent which had been occupied by Hardy.

Capt Nugent, C.S.M. Berry and Sgt McTaggart were there.

They were examining equipment and questioning several men in the tent.

I was handed two steel helmets and a boot.

They had blood-stains on them. I recognise Exhibits B.&C. as one of the steel helmets and boot respectively.

We then left and went to the guard tent where Capt Nugent interviewed the two prisoners.

He instructed me to take the shirt from Streefkirk.

This I did.

I recognise Ex A as the shirt. We then went out and enquired after Hardy's condition.

When Streefkirk and Gislingham came out of their tent, Gislingham was dressed in an overcoat and some clothing underneath but no trousers.

Also something on his feet.

Streefkirk had on a shirt and trousers.

I can't say if he had boots or socks on.

Cross-examined by accused Streefkirk.  
Accused declines to cross-examine.

His evidence is read to witness.

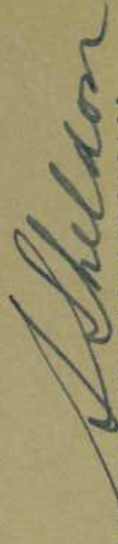
  
.....  
Signature of witness.

8 -

~~Cross~~- Examined by the accused Gislingham.

Accused declines to cross-examine.

His evidence is read over to witness.

A handwritten signature in cursive script, appearing to read 'Sheldon', written over a series of dotted lines.

Signature of witness.

National Archives of Australia

NAA: A471, 23805



9th Witness against the accused.

No V.X.12914 Pte Richard Alexander Roberts. No 3 Coy  
Composite Training Regiment being duly sworn ~~in~~ gives  
the following evidence.

At about 2300 hrs 15 Oct 40 I was awakened by a scuffling  
in the tent I sleep in.

Pte Hardy sleeps in the same tent, I saw a tin hat being  
swung by someone towards a bed.

It was down the far end of the tent from me.

I saw a man whom I recognised as Gislingham standing at  
the entrance to the tent.

I saw two sentries about ten yards from the tent.

I then saw Streefkirk join Gislingham.

He came from the entrance of the tent. They went over  
towards the sentry I saw Streefkirk make a grab at the  
sentry's rifle.

The sentry pulled it back. I heard them talking.

Voices were raised occasionally. I couldn't distinguish  
the conversation but heard Streefkirk say something about  
tomorrow.

They then went away.

I can't say how they were dressed.

Cross-examined by accused Streefkirk.

Accused declines to cross-examine.

His evidence is read to witness.

*R. A. Roberts*.....

Signature of Witness.

9.

Cross- Examined by the accused Gislingham.

Accused declines to cross - examine.

His evudence is read over to witness.

*R. A. Roberts*  
.....  
Signature of Witness.

National Archives of Australia

NAA: A471, 23805



10 th Witness against accused.

N.X.8084 Pte Lawrence Lazarus No 3 Coy Composite Training Regiment, Being duly sworn gives the following evidence.

On the night 15 Oct 40 I was on Prowler guard. At about 2300 hrs in company with Pte Gatehouse I was doing rounds. I heard a cry for help. We went in the direction of the call and I saw Gislingham and Streefkirk outside a tent. They were laughing They seemed to be under the influence of drink.

Streefkirk approached us, Gatehouse was ahead of me. Streefkirk tried to take the rifle from Gatehouse. Gatehouse pulled it ~~back~~ away. I told Gislingham to ~~make~~ quieten Streefkirk who was laughing loudly and talking loudly. Streefkirk said something about writing it down in his black book and they'd shoot it out in the morning. Gislingham and Streefkirk returned into the tent they had come from. I didn't know that it wasn't their own tent or whose tent it was. We proceeded on our rounds, I thought the call for help had come from one of them and it was larickinism.

Cross-Examined by the accused Streefkirk.

Accused declines to cross-examine.

His evidence is read over to witness.

.... *Lawrence Lazarus* ...  
Signature of Witness.

10.

↙ Cross-Examined by the accused Gislingham.

Accused declines to cross-examine.

His evidence is read to witness.

*.. Laurence. Layman*  
signature of witness.



11 th Witness against accused.

T.X.1040 Pte Charles Raymond Mace Gatehouse No 3 Coy  
Composite Training Regiment,  
Being duly sworn gives the following evidence.

On the night 15 Oct 40 I was on prowler piquet.  
At about 2300 hrs I was with Pte Lazerus doing our  
rounds.  
I heard cries for help coming from a tent.  
We went over, I was in front.  
I saw Gislingham and Streefkirk come out of a tent.  
It appeared to me that they had <sup>had</sup> a bit to drink.  
I wouldn't say they were drunk.  
I approached them and told them to break the noise down.  
Inside the tent was quiet, we argued.  
Streefkirk got hold of my rifle, He didn't take it off me.  
I don't think he was trying to take it.  
Streefkirk said he'd have me on in the morning with  
whatever I liked, a rifle or anything.  
They quietened down.  
I didn't think there was anything wrong inside the tent  
as there was no noise from it.  
Lazerus and I went towards our orderly room.  
I was met by L/Cpl Simpson. In consequence of what he told  
us we went to the Sgt's tent.  
I saw Hardy there.  
He was badly cut about the face. I did not see either of  
the accused again that night.  
I cannot say what clothes the accused were wearing but they  
were clothed.

Cross-Examined by accused Streefkirk.

Accused declines to cross-examine.

His evidence is read to witness.

*C. R. Mace*  
.....  
Signature of Witness.

11.

Cross-Examined by accused Gislingham.

Accused declines to cross-examine.

His statement is read to witness.

.....  
*S. K. G. [Signature]*  
.....  
Signature of Witness

National Archives of Australia

NAA: A471, 23805



12th Witness against the accused.

V.X.10501 Pte William James Hardy No 3 Coy Composite Training Regt being duly sworn gives the following evidence.

On the <sup>night</sup> of 15 Oct 40 I went to the pictures. I came back to my tent after the pictures and went to bed. I went to sleep.

I don't know how long I was asleep when I suddenly woke up.

A man was sitting crossways on me. His hands were under the clothes feeling for my money belt. I went to sit up and I was knocked down. This happened several times. My fingers were twisted back and the man also put his fingers in my eye.

Then a steel helmet was knocked on top of my head. I remember seeing another man alongside me with a boot in his hand,

He struck me over the head with it, I was struck often with the tin hat.

Also two or three times with the boot.

I called out for the guard. Everything seemed to go pretty black then.

I then next remember being in Sgt Major Berry's tent.

I cannot remember much after this.

I recognised the two men. Streefkerk was the man who was astride me and who used the steel helmet.

Gislingham was the other.

I had £31-10-0 in my sock it was in Australian and Paestian notes.

I used to carry it in my money belt in the daytime.

Pte Hodge knew I had the money as I remember showing it him the notes that day.

I had tried previously to have the money minded by the Pay-Sgt as I had been warned a few days before that I would be attacked for it. Pte Fairchild warned me.

This was why I kept it in my sock at night.

I had 1500 Mils in the back pocket of my shorts.

There were 20500 Mils Notes and the rest was silver.

I did not have this money after the affair.

Cross-Examined by the accused Streefkerk.

Accused declines to cross-examine.

His evidence is read to witness.

W. J. Hardy.....  
Signature of witness.

13

Cross-Examined by the accused Gislingham.

Q. Did I use a boot on you?

A. Yes.

Witness does not say anything by way of re-examination.

This evidence is read to witness

...*W. J. Hardy*.....  
Signature of Witness.



5  
DEFENCE.

Question and warning to accused, *Streefkerk*.

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

Answer. I will give evidence on oath.

Evidence of accused.

The accused being duly sworn gives the foallowing evidence.

On the night of the 15 Oct 40 I was playing dice with Pte Hardy . I lost 4000 Mills to him.  
He went away.  
I started drinking some beer. I was talking to a couple of fellows.  
They asked me how much money I had lost  
I told them 4000 Mills  
They told me I was mad as the game was crook.  
I thought about it for awhile and on the way over to my tent ,Gislingham and I were approaching Hardy's tent.  
I heard him talking with someone in the tent.  
He said "I caught Butch at last with the dice its a beauty and I can't miss".  
I was lying in bed thinking about it and talking it over with Gislingham.  
Gislingham said"I know he had some crook dice on the ship"  
I said "I know that too.  
I got up and went to Hardy's tent. Gislingham followed me  
I went in to the tent and challenged Hardy.  
I asked him for the dice. He refused to give them to me  
He stood up. I said "If you don't give them to me I'll take them off you. I grabbed him by the front of the shirt and punched him. We both went down together.  
We were both punching on the ground, I was getting the best of him when he sang out for help.  
I walked outside the tent. The piquet challenged me.  
They said "Whats going on in there".  
~~I then went to bed.~~ I pushed the muzzle of Gatehouse's rifle away from my chest. I said to him "If you want to have a shot I'll fight you tomorrow morning.  
I then went to bed.  
I was asleep when Sgt Major Berry came in and woke me up.  
He said "The skipper wants you".  
I got up and went outside.  
Capt, Nugent was there He asked me what I had done. I replied "Nothing." He asked me did I see Hardy. I replied "No".  
The n he put me under close arrest.

His evidence is read to accused.

*L. Streefkerk*  
Signatuer of accused.

Accused does not wish to call any witnesses.

I certify that the above Summary of Evidence was taken by me at Deir Suneid and Gaza Ridge on the 18th, 19th and 21st days of October 1940 and that the requirements of rules of procedure 4(c)(D)(E)(F) and (G) have been complied with.

*Howard A. Solomon*  
.....  
Signature of Officer taking  
Summary.

DEFENDANT.

*Question and warning to accused Gislingsham.*

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

Answer.

I don't wish to make a statement or give evidence on oath. I ~~would~~ would like to see a lawyer before I say anything as I am ~~defixxx~~ definitely innocent.

*R. Gislingsham*  
.....  
Signature of accused.

Accused does not wish to call any witnesses .

I certify that the above summary of evidence was taken by me at Deir Suneid and Gaza Ridge on the 18 th 19 th and 21 st days of October 1940 and that the requirements of Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

*Howard A. Selmon Lieut*  
.....  
Signature of Officer taking Summary.



Summary of evidence was re-opened for the purpose of taking further  
evidence.  
7271 witness against  
accused. (Recalled)

VX 10501 Pte William James Hardy No 3 Coy  
Composite Troop Regt being duly sworn gives  
the following additional evidence.

On the night in question I was sleeping  
in a Khaki Shirt and a pair of Khaki Shorts.  
My money belt was alongside the bed so  
I had taken the money out of it.

When I said the man's hands were  
under the clothes feeling for my money  
belt I meant that he was feeling  
round my waist where my money  
belt would usually be.

The hands were man was feeling  
all around me when I sat up.

Cross-examined by the accused Streetbrick.

Accused declines to cross-examine

Cross-examined by the accused Gillingham

Accused declines to cross-examine

His evidence is read to witness

~~signature of witness~~

W. J. Hardy

~~signature of witness~~

13th witness against accused.

NX 340 Capt. William Maurice Ada of  
1st Aust. Gen. Hospital being duly sworn  
gives the following evidence:

NOX 0501 Pte William James Hardy was  
admitted to the 1st A.G. H on 17th Oct 40.

He was suffering from cerebral concussion,  
lacerations and bruising of face and  
scalp and left eye and bruises  
index and middle fingers of right  
hand.

Skin was broken on scalp, face  
and lower lip.

He was X rayed but proved  
negative for fracture of skull.

His injuries could be consistent  
with his having being struck with  
a steel helmet and a boot.

He will be an inmate for at  
least another three weeks i.e. until  
the 16th November 1940 at least.

Cross-examined by accused Streetwick.

Accused declines to cross-examine

Cross-examined by accused Gillingham

Accused declines to cross-examine

His evidence is read to witness

signature of witness

Richard Capt. William Hardy

Signature of Pte Hardy  
NAX. 444. 23805



A471

