

it had been done before without proper authority.

Q.289. On this occasion the exercise took place in the Nanaimo training area?

Yes sir.

Q.290. Is it not a fact that this is the first occasion in Nanaimo area that live rounds were used to your knowledge in any way?

To my knowledge yes sir.

Q.291. In other words you had no precedent to use live rounds?

No sir.

Q.292. And I put it further to you that it is extremely inadvisable to use live rounds in that area. Is it not a fact that almost in a line of your bullet behind Pte. Rushworth there is the Nanaimo Creamery?

Not behind. It is off at a tangent.

Q.293. But it is a populated area?

Yes sir.

Q.294. Regardless of that, orders have been given in regard to live rounds in battle training. Is it not a fact that there have been orders given in this battalion that live rounds will not be used in a populated area?

I can't remember that sir. All I can remember is that operational rounds must be used and not practice.

Q.295. Yes in battle drill, but they did not apply in Nanaimo area.

No sir.

Q.296. I don't want to be unduly hard sergeant but is it not a fact that you took it on yourself to do this?

Yes sir.

THE COURT

Q.297. How do you classify as a marksman sergeant?

I have not classified this year but I have classified eight previous years.

Q.298. Well?

I passed second and first class.

Q.299. Do you consider yourself a good shot?

I do now sir yes.

Q.300. What effect did you think the firing of a shot in the direction of Pte. Rushworth would have on him?

Well sir previous to that the training had been carried out with blank rounds, even the battle inoculation but all the boys just laughed at the N.C.O.'s and made fun of it and I figured that if I fired a live round and they knew I was going to fire a live round they would endeavour to do a little more and I figured they would hear the crack of the bullet.