

THE COURT: Do you feel that McCallum's evidence is essential to your defense?

DEFENDING OFFICER: "No, sir, but I think in the interests of justice that we should find out where this money is. I will value his production here, but I would like the Court to note that Cooper says he didn't get any money, and that says he didn't get any money. The point is, that the accused is out of \$5.00, and he wants to get it back if possible. There will be no defense sir.

THE PROSECUTION WOULD LIKE TO OPEN ANOTHER:

The accused is charged under Section 40, and the Prosecution has produced evidence I submit, that the accused did operate a gambling table in a public place under such circumstances as to constitute an offense under Section 40. Now the evidence of L/Sgt. Cooper and L/Sgt. Higgins who stood by this table in that particular place where the accused was, is to the effect that the accused was running a game of blackjack, and I admit out to the Court that they agreed that the accused sold all the dealing and received all bets and paid all winners, which I submit is operating a gambling table. I submit that this evidence is in a public place. There has certainly been evidence that the place is obviously open to the public, or that anybody passing by could go in and play. I submit that although gambling at times may not constitute an offense under Section 40, in this particular case, under these particular circumstances it did, because there were a great many soldiers present, and it was in a public place.

THE DEFENDING OFFICER WOULD LIKE TO OPEN ANOTHER:

I suggest that the number of soldiers in Gordon Camp, where there is nobody else but soldiers, that there cannot be such an offense, because everything a man does in this camp is done in the presence of soldiers, and if anything does when there are only a few soldiers around it is not an offense, then it is no more of an offense because it was in the presence of a lot of soldiers. There is nothing to suggest that the game they were playing amounts to an offense. There is no order against it, no law against it, no rule against it. It has been carried on in this place for a very considerable time without any hindrance. There is no suggestion that anybody was hindered from carrying out their duties, or that the conduct in any way was to the prejudice of good order and military discipline. I don't know what a gambling table consists of, but I am going to submit that the Court will not find that whatever was done on this cloth constitutes an offense, as to being a public place, it is quite obvious from the evidence of the witness that it took place in the confines of a camp, because the witness says that it was not a public place, that is R.O. property. R.O. Camp, A.D. does not apply, because if it did the charge would have to be laid differently. R.O. Camp A.D. does not apply in a public place, and therefore does not apply to this charge. There are no circumstances I submit under which you could suggest in any way that this accused has been guilty of the offense charged;—this is a thing ~~unsubstantiated~~ which can be assumed and I think it is very unfair that an assumption that has been carried on for such a long time that it should without any warning become a Court Martial offense. The accused wishes to say through me sir, that he had between 1 and 2 pounds that evening when the witness picked him up, and according to the witness statement it was 5 shillings. He raised that point right at the table. The summary of evidence shows 5 shillings, and the accused is out over 1 pound.

THE COURT IS CLOSED FOR CONSIDERATION OF FINDING.

THE COURT IS REQUESTED AND ADVISED THAT IT CANNOT REOPEN THE FINDING, BUT THE FINDING SHOULD VALID BE CONTAINED. *James R.O. 3962 + copied with.*

THE PROSECUTION WOULD LIKE TO OPEN ANOTHER AND MAY 6 IN CONNECTION WITH THE ACCUSED

ON 10/10/10 IS CONSIDERED WITH

THE DEFENDING OFFICER WOULD LIKE A FILE IN SUBSTANTIVE.

ON behalf of the accused and in addition to my previous remarks, I would ask the Court to take into consideration that this man has been in custody for 20 days. He also lost over 4 pounds as a result of the police raid. I therefore request leniency on behalf of this accused.

James R.O. 3962 + copied with.

THE COURT IS CLOSED BY CAPTAIN GORDON.

THE COURT IS REQUESTED AND ADVISED THAT IT CANNOT REOPEN THE FINDING, BUT THE FINDING SHOULD VALID BE CONTAINED.

Arthur L. Higgins, M.P.