

quite often. We had a big room downstairs and a good bed to sit on. Major Reid's room is only 6' x 10'. I would write downstairs on the bed. He was always asking me if I got mail and about the news from home. I remember I have written a couple of letters in his room.

- Q. 362 On the right hand side of this paper (Exhibit "E-2") write the following:- "A court was held today in the grounds of a school occupied for several weeks by Gunners of the Cdn Arty." Underneath it sign "E.J. White." (Witness does as indicated).

DEFENDING OFFICER GIBBS UP:-

I don't intend to address the court at any great length, there was only one point in this case and that is the case of comparison of the various signatures and writing on the cheques. The specimens of handwriting which were put in by the Prosecutor as exhibits, and he has shown his opinion. He can't give any more than that, his opinion, and it is only in the case of an expert witness where an opinion is accepted. Otherwise, the witness must say what he knows not what he thinks. It is only in that case that evidence of that type is accepted. I submit to the court that final comparison of the handwritings should be made not by the expert witness but by the court itself. The expert is called merely to point out the similarities or dissimilarities in the writings and really as an expert adviser to the court. And the final decision as to the similarity of the handwritings must rest with the court. The expert witness has given his opinion that the writings in the specimens and the questioned signatures were made by the same person but I would suggest to the court that there is the possibility at least in the case of exhibit G that at least a portion of the writing might have been done by a third person. I suggest the possibility that somebody in the Salvation Army or even the minister whose name appears, might have filled it in himself instead of whoever owned the book. I also wish to point out to the court in the case of two specimens only is the handwriting admitted by the accused. The accused has admitted to the signatures in Exhibit I and J which is straight signature "E.J. White". In the case of Exhibits E, F and G, there is no positive evidence that the writing is that of the accused. No witness could state either that he saw the accused do any of the writing or that he knew that it was the accused's writing. In the case of those three exhibits, the evidence is circumstantial, the court must be satisfied that not only the circumstances are consistent with the accused having done this writing but they are inconsistent with the rational conclusion that someone else had done it. I submit the possibility that in the case of E, F and G, someone else may have done the writing. Evidence was given by the expert witness on the summary and the first comparison made was with E, F and G, at that time then he didn't have I and J, so could not have compared them. At a later date he finished with I and J and now it is all written by the same party. I suggest the possibility of error there and I submit that it is up to the court to make any comparison of handwritings. With the assistance of the expert witness which we have. I might also point out that there is no evidence at all as to the accused having had in his possession at that time exhibits E, C and D so the evidence there is also circumstantial. There is no evidence brought forward that he seemed to have more money than he should have. It seems to me if a man cashed all these cheques his comrades surely would have noticed he had more money than usual, and considerable time has elapsed since then and there is no evidence brought forward to that effect. There was evidence that a letter addressed to Mr. Schriver had been given to the accused which the accused denies and that there was a cheque in that envelope, no one saw it. Neither the witness who stated he handed the letter to the accused, he couldn't say there was a cheque in it, the Q.M. couldn't say there was a cheque in it. Neither one could know unless it was opened and seen. In the case of Exhibit B, no evidence that the technical storeman saw it. The mail clerk I believe stated that the medical orderly came and got his mail. There is no evidence that a letter addressed to McDowell was given to the accused. McDowell stated he called for his own mail. I submit there is very little

*End*