

THIRD WITNESS FOR THE DEFENCE (CONTINUED)

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

ADDRESS TO THE COURT BY THE DEF OFFER

You have heard several people on this charge and I would like to bring up a view point, first I think everybody noticed it the fact that the Cpl did not ask Tpr Reid to produce his pass. Both the Cpls state that Tpr Reid was not drunk and yet they are not in the habit of seeing a person urinate in front of everyone. I want to point out these boys returned from the Continent, now on the continent sanitary conditions are very lax. You can where you feel like, it, on the main street. But these boys as I have said have just returned, they were thinking Tpr Reid had to relieve himself and so he just turned to the nearest wall just from habit. I can't imagine a sober person doing a thing like that. This charge, resisting by fighting and struggling violently, now once again as I have tried to bring out in my questions, Tpr Reid was very drunk, perhaps he didn't like the way the Cpl wore his hat, so when he got in the vehicle he didn't like it, so he struggled and was put into the vehicle, now being a Canadian and we know Canadians and perhaps it is just as well they are that way and even when he was held down kept up the fighting. I think people like that won the war, there is not much else I can say it is up to you.

REPLY BY THE PROS OFFER TO THE DEF OFFERS ADDRESS

The defence has gone to rather great lengths to prove justification for the accused, I should like to remind the court at this time that these men are trained soldiers, have been in the army for a period of years and know right from wrong. I suggest to the Court that Cpl Clark is being confused by the term order as applied in this case. The unusual policy of the Canadian Troopst Corps may be at this time to request rather than to order but it is not in any way intended to lose its effectiveness is that it must be complied with. I can again remind the honorable defence who is battle experienced that his own orders which he passed on to the men who fought with him were not phrased in any legal technical style, they were orders in intention though they may have been phrased otherwise.

THE COURT WILL BE CLOSED TO CONSIDER THE EVIDENCE

THE COURT IS RE-OPENED

THE COURT FINDS THE ACCUSED NOT GUILTY OF THE SECOND CHARGE AND NOT GUILTY OF THE THIRD CHARGE FINDINGS OF THE COURT IN RESPECT TO THE FIRST, FOURTH AND FIFTH CHARGES CANNOT BE COMMUNICATED TO THE ACCUSED.

PLEA OF MITIGATION ATTACHED HERETO.

MJ