

engagement for overseas service by the soldier charged with being absent without leave is complete on production of the signed enlistment paper and proof that the accused had been passed as fit for military service and that the military unit had been regularly established; and *prima facie* proof of absence without leave may be made by the production of a letter to that effect from the officer commanding the Military District; it is no answer for the accused to shew at the trial that the age he gave at enlistment as under 45 was incorrect and that he was over that age.

ANNOTATION ON THE ABOVE CASE FROM D.L.R.

A new order-in-council in substitution for that of January 6, 1916, was passed at Ottawa on August 5, 1916, in the following terms (P.C. 1873):—

"Whereas it has been found that the Regulations made and established by order-in-council 6th of January, 1916, P.C. 3057, with the view of punishing and preventing the offence of absence without leave from the Active Militia and the Overseas Expeditionary Force, need amendment, therefore, the Governor-General in-Council is pleased to order that the said order-in-council shall be and the same is hereby cancelled.

"The Governor-General in Council, with the same purpose in view, and under and in virtue of the power conferred by section 6 of the War Measures Act, is further pleased to order and it is hereby ordered as follows:—

(1) Every man of the active militia of Canada, and every soldier of the Canadian Overseas Expeditionary Forces who absents himself from the corps or unit to which he belongs, without the leave of the Commanding Officer of such corps or unit, is guilty of an offence and liable upon summary conviction under the provisions of part XV. of the Criminal Code to imprisonment, with or without hard labour, for a term not exceeding two years.

(2) Notwithstanding anything contained in the Criminal Code, or in any other Act or law, any justice of the peace, police or stipendiary magistrate shall have jurisdiction to hear, try and determine any charge of an offence of absence without leave, although the offence may have been committed or be charged to have been committed outside the territorial division in which such justice, police or stipendiary magistrate ordinarily has or exercises his jurisdiction.

(3) The production of a Service Roll or Attestation Paper purporting to be signed by the accused and purporting to be an engagement by him to serve in the corps or unit from which he is charged with being absent without leave shall be sufficient proof that the accused was duly enlisted in the said corps or unit, and a written statement purporting to be signed by the Officer Commanding or administering a Military District in Canada