

-4- 3.

CROSS EXAMINATION BY THE DEFENCE (cont'd)

- A.12 Ago by a log and that he was in Hospital in Canada.  
Q.13 You state he was malingering?  
A.13 I gave my opinion he was malingering.  
Q.14 Does that mean he had no pain?  
A.14 He may have had pain.  
Q.15 Could he suffer pain without you knowing?  
A.15 He could suffer very little.  
Q.16 When you sent him to Hospital, did you state the case as malingering?  
A.16 No.

Examination by the Court

- Q.17 Did you indicate to the specialists that you suspected the accused was malingering?  
A.17 Yes.

THIRD WITNESS

For the prosecutor

Capt. J.B. MacDonald, RCAMC, Medical Officer at 3 Cdn Div. Inf. Relief. Unit, an Officer of the Canadian Army Overseas, having been duly sworn and identified the accused, states as follows:

- Q.1 Have you had occasion to examine the accused?  
A.1 Yes.  
Q.2 When?  
A.1 On the morning 23 Jul 42.  
Q.3 What was the complaint?  
A.1 Pain in the right lower limb.  
Q.4 What kind of pain?  
A.1 He had a pain that hurt him to walk or move.  
Q.5 What did your medical examination reveal?  
A.1 It revealed no organic cause for his complaint.  
Q.6 Did you see the man walking about?  
A.1 Yes.  
Q.7 On several occasions?  
A.1 Yes.  
Q.8 Have you noticed the limp?  
A.1 Yes.  
Q.9 Is the limp on the right leg?  
A.1 I believe so, yes.  
Q.10 Does he limp on the other leg as well?  
A.1 I haven't observed him limping on the other leg.  
Q.11 Does the limp vary from day to day?  
A.1 Yes.  
Q.12 What does that suggest?  
A.1 A variation of the limp suggests to me that the injury complained of was not constant and throws a doubt on the genuineness of the disability. A genuine constant disability will produce a constant symptom

CROSS EXAMINATION BY THE DEFENCE

- Q.13 How many times have you examined the accused?  
A.13 Twice, with reference to his complaint.  
Q.14 Did you notice any marks or scars on his right leg?  
A.14 Not on his leg.  
Q.15 Any scars on his body?  
A.14 I haven't noticed any.  
Q.16 Have you seen any scars on his right hip?  
A.14 Not any appreciable scars.  
Q.17 Have you seen any scars as the result of an accident, say 2 years ago.  
A.14 Not that I connected with any appreciable accident.  
Q.18 You are quite sure that the man doesn't feel any pain?  
A.14 No.  
Q.19 Are there any means, at your examination, of proving the man had no pain?  
A.14 No.  
R.