

- Q. Which makes it quite possible that the jerkin could have been found on a hook near the accused's kit, lying near his bed, or on the floor near his bed?
- A. Yes, Sir.
- Q. There is no proof as there is no Pt II paybook that the leather jerkin is not properly in the possession of the accused?
- A. Right, Sir.
- Q. Are leather jerkins issued to soldiers?
- A. Yes, Sir.
- Q. The accused lived in a hut where lived several persons?
- A. Yes, Sir.
- Q. Could it be possible that some other private had thrown this leather jerkin in the area of the accused's bed?
- A. It is possible.
- Q. Regarding Ex 3, who found it?
- A. I can't say, it was just thrown at me. It was found within the bed area of the accused.
- Q. Is it also true that it could have been thrown there by somebody else?
- A. Yes, Sir, before we came in.
- Q. There no Pt III Paybook to prove if it is proper or improper possession on his part?
- A. Right, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

THE PROSECUTOR SAID THAT THE SECOND WITNESS MENTIONED IN THE SUMMARY, Lt SAVOIE, WAS NOT AVAILABLE TO-DAY.

THE DEFENDING OFFICER THAT HE DID NOT REQUIRE HIS PRESENCE FOR CROSS-EXAMINATION.

THE PROSECUTION IS CLOSED

-- DEFENCE --

THE DEF OFFR SUBMITTED THAT THE ACCUSED SHOULD BE ACQUITTED BECAUSE THE PROSECUTION HAD FAILED TO MAKE A PRIMA FACIE CASE AGAINST THE ACCUSED.

SUBMISSION BY THE DEFENDING OFFICER

There is no prima facie case established re the charge laid against the accused. First of all, there is no sufficient amount of witnesses. There is only one man and one man does not create proper evidence. Secondly, on the improper possession of the following articles, one cap tank battalion, size 7 3/8, one leather jerkin, and one framed mirror 9" x 11", about the cap, there is no proof that the said cap is not officially and properly the property of the accused, and there is no proof that it was found in the possession of the accused, and again there is no proof that it was found in the possession of the accused, as the accused was given the cap by someone else. The same applies as to the jerkins; the same article could properly belong to the accused and there is no proof of not proper property and there is no proof that it was not in his possession; about the third article, the mirror, it was not again proven or proved to be in the possession of the accused or even if it had been found in his possession; there is also no proof that it was not his private property and there is no proof that there is anything improper in his possession of it. 