

EXAMINATION BY THE COURT

- Q.3 Is the accused ordinarily under your Command?
- A.3 Not regularly but quite often.
- Q.4 Did you actually see the medical report of which you speak?
- A.4 Yes Sir.
- Q.5 When you had the ~~XXXXXX~~ accused under your command previous to this did you notice any reluctance to do the drill?
- A.5 No. The accused always showed signs of weakness in his legs.
- Q.6 Was he afraid of Battle Drill?
- A.6 On Battle Drill I only had the accused the day I put him under arrest.
- Q.7 If it was the first day he was on Battle Drill, how do you arrive at that conclusion?
- A.7 I explained he had ordinary drill.
- Q.8 How did you arrive at your opinion of the accused?
- A.8 Sir, when I saw the man coming towards me I saw he looked to move as if he was limping. I said to myself he couldn't do Battle Drill but he will have to go on. I told him he would have to. He told me he had a sore right leg with pain. When he said that he came with me to see the Major so I brought him with me and told him to wait outside the office.
- Q.9 Did you have other opportunities of observing the accused?
- A.9 No.

Second Witness G6088 A/Cpl LeBlanc L, R de Chaud, 3 Cdn. Div. Inf. Reinf. Unit, a soldier of the Canadian Army Overseas, having been duly sworn, and identified the accused, states:

For the prosecution

- Q.1 On the 29 Jul 42 did you have occasion to hear anything that might have come to pass between the accused and Cpl Racine.
- A.1 Yes.
- Q.2 Will you tell the Court what came to pass between the accused and Cpl Racine.
- A.2 In Crockham, 29 Jul 42 I heard Cpl Racine tell the accused to go on parade and the accused answered he was sick.
- Q.3 Was the order, given by Cpl Racine, repeated to the accused?
- A.3 Three times.
- Q.4 Did the accused obey the order?
- A.4 No Sir.

*The accused declines to cross-examine.*

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- Q.5 You say the accused did not obey the order?
- A.5 I said he was sick, Sir.
- Q.6 Is the accused under your command?
- A.6 No Sir.
- Q.7 How often do you see him?
- A.7 He has only been here two month. and I only know him by name.

- 34 Court to the accused: Do you wish to give evidence yourself as a witness on oath?
- 34 Accused: No Sir.
- 34 Court: Do you wish to make a statement not on oath.
- 34 Accused: No Sir.
- 34 Court: Do you wish to call any other witnesses as to facts and character?
- 34 Accused: No Sir.

CLOSING ADDRESS BY THE DEFENCE

The Court has no means of proving the accused could go on parade and asks that the charge be dismissed. The Cpl stated he was under the impression of being sick. It all hinges on the medical charges and this charge. The prosecution has not made out that this man was medically fit to do Battle Drill and this disobeying an order really hinges on that.