

whether or not the accused deserted, to prove the first
prosecution must show absence without leave
an intention to avoid some particular important
officer is guilty of absence without leave by
being absent without authority from the place
he, or ought to know, that his duties require
his absence without authority coupled with an
further participation in an attack by the
desertion. The essence of this charge is
intention. Now, the existence of an intention
fact must be proved in evidence, but we cannot
mind of man except through his outward acts;
of his intention therefore must be reasonably
inferred from his acts. It is a rule of law that every
man is to intend the natural and probable consequences
of his acts. Therefore, when an officer in command of a pla-
toon proceeds to attack the enemy absents him-
self from that platoon and remains absent un-
til the attack is over without reason or excuse, under these
facts the court may be justified in concluding that
he intended to avoid further participation in the attack,
and cannot satisfactorily account for his absence. To re-
spond to your question on the question, I recommend
you consider the following breakdown of the charge,
regarding to the facts and your experience did ~~any~~
the accused to be - if you find that his duty
required him to be with his platoon the charge must
fail unless he was at that spot where his duty required
him to be; did he have permission to leave. If you
find that these three points will confirm your con-
clusion of absence without leave. If one
of these points the charge must fail; and again, fourthly;
was he in on that time. You will have no doubt