

55

Get transport for recreational purposes he must get the approval of the A. & Q. or the D. A. A. G. and this is where my friend and I part company. Mr. Hodgins advised me specifically that he had no authority to grant recreational transport but that every recreational transport requisition had to be approved by the A. & Q. or the D.A.A.G. In answer to my friend he said that there was no record so far as he was aware of an application having been made but he couldn't say and didn't attempt to say and quite properly didn't try to say that the A. & Q. or the D.A.A.G. didn't grant authority.

Now, I submit that before this Prosecution can be successful they have got to prove that every one of their own rules, that there are rules which have been complied with or a rule has been broken and the only way that that can be done, gentlemen, is by producing the then A. & Q. and the D.A.A.G. who is available and saying "Did you or did you not give authority to Mr. Robb for recreational transport on the 1st of March 1942?" I am not concerned what the answer would be, I am merely saying that that is the duty of the Prosecution, to prove their case and present all the possibilities. Now, we rely on that which leaves us in the position that Mr. Robb owes a bill for 1/- or 2/- Let the Prosecution prove that the D.A.A.G. or A. & Q. didn't grant the permission.

Now, on the second Charge. That is, I am restricting the second charge now to "Associating with other ranks". The charge which was handed to me, the one which I was working on and which offended me was this one "To consort with and associate with people of disreputable character etc - to wit private soldiers of the Canadian Army" but apparently the susceptibilities of someone took an exception to this "consorting with private soldiers" and reduced it to merely "associating with". I said this morning that a charge of this nature based on Section 40 "Conduct to the prejudice of Good order and military discipline" depended upon the predilection, pride and prudery people. I repeat it. I think gentlemen, that if we had time for a good publicity campaign properly handled by a good advertising agency we could prove out of the mouths of competent authority that the officers of the Canadian Army have been labelled by themselves as "Lepers - not fit to associate with" or on the other hand too proud to associate with a fellow man. I say that for the reason that we are debarred from associating with the opposite sex except on one occasion in our Mess. We are lepers and our Messes are leper colonies except on official occasions approved by the G.O.C. formation. Now, we are going to the other extreme and saying that either we are not fit to associate with other ranks or that they are not fit to associate with us. I don't know how many additions they could put to it by drinking with them. I will put any one of you in the position that you might well be in of having your brother or your son or any relative of yours to come to visit you and can only find you in your Mess and we know it would be infra dig to go down to the mess' quarters so what do you do? Do you go to a public house and get drunk with them or do you take them to your room and buy them a drink or do you pretend that you suddenly become pious and righteous and say "I used to take a drink in civvies but now I am in the Army and don't associate with people like you". What is the remedy? They can affect the same remedy which my friend suggested. "It is this court's job to lay down the law". I think he is wrong. It is not their job. It is only the court's job to interpret the law and lay down what the law says in decisions and if the law is not clear enough if it is not beyond all doubt certain it is then your duty to acquit the accused and the law is not certain because it says nothing about associating with private soldiers by drinking with them as an offence which would offend the sus-

W.H.T.