

if the court has no doubt, no reasonable doubt about the offences having been committed then, of course, it must find the accused guilty but if there is any reasonable doubt I think the court should give the accused the benefit of that doubt, especially due to the fact that in offences of this nature involving an officer a conviction would have a serious effect upon his reputation both now and after the war and would hamper him throughout the rest of his life if he were convicted of these charges. Therefore, I urge the court to especially consider the evidence in favor of the accused and if after considering and weighing the evidence they feel there is at least some reasonable doubt as to whether the accused is guilty of committing this offence, if there is some reasonable doubt in his favour he should be by all means be given the benefit of that doubt. Now, I submit that the question of the accused being absent from his post or deserting his post starts from the time when he was hit by the shell blast and from then on I submit on the evidence up to the time when this shell has knocked out or dazed the accused he is doing his job, whether he did do it perfectly or not is not the question as long as he was where he should have been and had his platoon under control. There is some suggestion by Capt Dickie that at some period before that time the platoon was not under control but I don't think that should worry the court at this stage because in effect I think there is sufficient explanation to where the accused was and up until the time of the shell blast the accused is doing the job in the way it is proper for him to act. Now, throughout this time it seems quite possible most of the trouble is due to the enemy, throughout this whole attack there seems to have been a great deal of confusion. We have the words of Capt Dickie himself, who said it was, a kind of a muddled affair. After the shells had landed they