

J. H. Johnson
11-7-41

and I had a few more drinks and I remember being in the mess but I can't remember anything outside at the gate and knew nothing until the following morning of what happened

- Q.68 - What time did you come into barracks and go to the sergeants' mess?
- A.68 - I must have come in about 9 or 9.30 - somewhere around there
- Q.69 - And what was it that you were drinking?
- A.69 - Wine, sir
- Q.70 - Had you ever had wine before?
- A.70 - No, sir
- Q.71 - And have you any idea how much wine you consumed?
- A.71 - No, I don't, sir
- Q.72 - You don't remember anything about the incident which you have been hearing evidence of?
- A.72 - No, sir
- Q.73 - Did you know Cnr. Jacobson before?
- A.73 - No, sir
- Q.74 - You didn't know him before?
- A.74 - No, sir
- Q.75 - Had you ever heard anything about Cnr. Jacobson before?
- A.75 - No, sir

Prosecutor declines to cross-examine this witness

1st Character Witness, Capt. F. G. Portsmouth, 1 C.S.R.U., having been duly sworn is examined by the Defending Officer.

- Q.76 - Capt. Portsmouth, will you tell the court in your own words who you are, what your appointment in 1 C.S.R.U. is and what dealings you have had with S/Sgt Vyvyan?
- A.76 - Sir, I am Capt. F. G. Portsmouth of the Royal Canadian Corps of Signals. I am weapon training officer of the No. 1 C.S.R.U. I have known S/Sgt Vyvyan for about two and a half months when he was attached to the unit as a Staff-sergeant Armourer. During that period I have had no occasion to speak to him regarding his work. He has been most satisfactory. He is willing, very conscientious and a keen worker. His keenness has been shown on the open range when he has accompanied me with the remainder of the unit on occasions. He not only confines his work to that of an Armourer but he assists and coaches the younger firer which is not really his job. He is very keen. As a soldier I have found him smart, clean and obedient. That is all, sir

Prosecutor declines to cross-examine this witness.

THE DEFENDING OFFICER MAKES THE FOLLOWING CLOSING ADDRESS:

Sir, I would like to just tell the court a few things about the service of S/Sgt Vyvyan. He is a Permanent Force soldier and has been in the Permanent Force six years and is now going into his seventh year. He came overseas with the 1st Division Toronto Scottish Regiment as Sergeant-Armourer. On Jun 1, 1941 he was promoted Staff-Sergeant. I should have said he came over as an Acting Sergeant Armourer. On Jun 1st he was promoted S/Sgt still with the Toronto Scottish Regt. Some time in September of 1941 the War Establishment of the Toronto Scottish was changed to call for instead of 2 S/Sgt Armourers - 2 Sergeant-Armourers. S/Sgt Vyvyan was called before the C.O. and the C.O. said that he had no choice in the matter, that he would have to revert to Acting Sergeant. S/Sgt Vyvyan went to his own people, the Ordnance Corps who advised him that he could either keep his crown and drop his trades pay of .50¢ a day or secondly keep his trade pay and drop his crown.

Court - I don't like to restrict the defence but I must point out that in reality you are giving evidence. You are making a statement of fact not given by the accused

Prosecutor - I don't object to it and can vouch for it

Court - In that case proceed

Defending Officer - The Ordnance Corps advised S/Sgt Vyvyan to keep his Crown and drop his trades pay which he did. After that an order came out not very long ago saying that those people who were surplus to Establishments would be switched around to a unit where