

*W. J. ...*  
*Per ...*

Closing Address by the Defending Officer at the trial by Standing Court-Martial of No. G-27458 Rifleman Percy Douthright, No. 7 District Depot, C.A.

The Defence is that Rifleman Douthright honestly believed himself to be discharged from the Army. The Prosecutor in his Closing Address suggests that Rifleman Douthright is guilty as charged and makes several presumptions, presuming that Rifleman Douthright knew in Jan 41 what a discharge certificate looked like. Now a soldier cannot be convicted on presumption. Rifleman Douthright on the witness stand said that he finished his schooling in grade four. He had not made any great advancement in his education. Jan 41 was quite early in this war and in view of the fact that he had committed a misdemeanour which he admits his absence without leave from the 30 Nov 40, it was quite reasonable for him when his wife received this communication from official sources to assume that the army wished to have no more to do with him and that he was discharged and in as much as a letter from Ottawa suggested that some adjustment is to be made, if I ever got a cheque, I am all through. In evidence Douthright swears that he did receive such a cheque and he honestly believed himself to be all through with military duties. There has been no suggestion on the part of the Prosecution that he ever sought to evade arrest or any suggestion that any previous attempt to apprehend the accused had been made, which certainly seems very strange when we find that he was evidently apprehended by the Provost Corps who came from a point, Moncton, which is only twenty miles distance from his home. The Defence produced Part II Orders of No. 5 District Depot, the Citadelle, Quebec, in evidence which, Sir, the Defence would ask you to take into consideration as showing that some doubt existed in the mind of the District Record Officer, or in the mind of the Record Officer of 5 District Depot as to whether the man was actually in the army or not. Part II Order No. 322 shows the accused taken on strength 5 District Depot on the 12 Dec 40 and Part II Order No. 21 of