

PROSECUTOR CALL WITNESS IN REBUTTAL

Capt. W.E.Thorne, CMSC, Records Officer, 3 Cdn.Div.Inf. Reinf.Unit, an officer of the Canadian Army Overseas, having been duly sworn, states:

Q/Can you identify this document?

A/ It is an MFM2 pertaining to D63456 Pte Vachon, F, R de Chaud Regiment and I am the officer who has custody of this MFM2, that of the accused.

Q/ When you examine the Medical part of this document has the accused declared any disability at the time of enlistment?

A/ None.

Q/ Will you offer this as evidence to the Court?

Examined by the Court and returned to the Records Officer.

The accused does not demand the attendance of this witness for cross examination. *The Court grants the application of the accused under R.P. 63 (F) to do his best appearance in the Court.*

THE PROSECUTOR'S ADDRESS

The signature of the accused has been identified and he declared this morning he explained that he stated he told the examiners about the injury, therefore he has committed perjury.

May it please the Court, in this matter the Court is to decide whether or not when he reported to the Medical Officer at the time stated in the charge, was suffering from any ailment. We have had three Medical Practitioners here and each one of them in turn has told us they could find no objective symptoms of articular or muscular trouble on the accused. The first witness is a specialist. This man examined the accused most carefully twice. On the second instance that he examined the man he went to the trouble and expense of getting X-Ray plates. They failed to disclose anything wrong with the man.

The second witness is a man with considerable experience and well able to pronounce himself on this type of work, more so than the specialist. The evidence given by Capt. Ployart shows that the man is much more observant. He has noticed that the limp of the accused varied from day to day and has not given the Court a very good explanation for it. In his own words he said the same trouble brought about the same reaction therefore the same limp, and as the limp varied the man greatly exaggerated a small ailment. Upon the medical examination of the accused in the company of three witness, both Capt Ployart and Capt. MacDonald state the man was not suffering from anything serious.

The second witness was borne out by the evidence of the third. The defence made great ado what they would lead us to believe, a great big scar on the leg of the accused. I suggest it could be covered by a five cent piece. They have brought a witness saying there is a difference between the legs of the accused. You have seen the difference. I would leave it to you to decide whether there is such a great difference in the legs of the accused.

The accused himself gave evidence under oath. I submit respectfully to this Court that this man has shamefully misled you on the evidence from Canada, but I have called evidence from Records Office, the MFM2 pertaining to the accused. You will no doubt remember that the accused said under oath that he declared his disability at the time of enlistment. The Court has taken knowledge of his enlistment paper. No such declaration was made. This man claims he was suffering from some sort of rheumatism and yet his urinalysis shows normal.

In conclusion, gentlemen, I can say every shred of evidence presented by the defence has not been contradicted except by the accused himself. He has hardly convinced the Court of the truth of his evidence. There is a principle of law that exists. It is when one part of a document is proved false the whole