

GENTLEMEN: According to the charge this man went absent without leave on the night of February 13th and was counted absent from 2145 hours, which was the normal tattoo roll call. That being a Saturday, there is a point there as training goes on Saturday afternoon.

THE JUDGE ADVOCATE: There is no evidence before the Court whether training ~~was~~^{is} on. The Members of the Court may use their military knowledge, but you should not presume anything as a fact that hasn't been proven in evidence.

THE PROSECUTOR: The observation about going away from this area without a pass is not admissible, is it?

THE JUDGE ADVOCATE: Who made that?

THE PROSECUTOR: He obviously didn't have a pass.

THE JUDGE ADVOCATE: That may be inferred by the Court if they think proper.

THE PROSECUTOR: In summing up, he went absent on that night to attend a party, intending to come back in a few days' time. His own admission stated that he ruined his uniform and it took him something like three months to do something about it or recover it, which he didn't, and he did not give himself up.

The evidence has been laid before the Court that he was apprehended dressed in civilian clothes. That possibly can be explained by the fact that his uniform was not available, but I contend that this man might have intended to come back sometime, but that "sometime" was very indefinite in the future.

PK