

- Q He has told this Court that he was in the MIR on the 5 Oct and refused the inoculation and was brought back on the 6th and charged, is that so?
- A He was, after 24 hours elapsed he was brought back again and asked if he would be inoculated. As regards your first question he never at any time said he had just been inoculated.
- Q When the accused was brought to your attention as refusing to accept the inoculation did you know that he had already been inoculated?
- A No certainly not.
- Q Do you recognize the handwriting of that entry showing the accused to have received an inoculation on the 5 Oct?
- A I do not know whether or not it is the hand writing of any of my clerks, I do not recognize it.
- Q Can you swear positively that he was not inoculated on the 5 Oct?
- A I can only swear that I did not inoculate him on that date.
- Q On the 5th and 6 Oct how many people were authorized to administer inoculations?
- A Just the two of us, Capt Heagy and myself. I have had a third MO in during the last month, he was on strength No 1 MEID, his name was Capt Roy but I cannot say whether he was in on the 5th or 6 Oct or not, he was in some days and absent others, his appearances were very irregular.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

PROSECUTOR ADDRESSES THE COURT ON THE FINDING:

Sir,
The accused when brought to the MO to be inoculated refused to accept this inoculation. He said he did not feel that he needed it, that he had already had enough, he failed to tell the MO that he had already been inoculated, if he had been, a few minutes before. Any man of intelligence and average education would do so, and, therefore clear up any doubt in the mind of any MO who wanted to inoculate him again. Therefore I recommend that the accused be found guilty.

DEF OFFER ADDRESSES THE COURT ON THE FINDING

Sir,
The charge against Pte Anderson is refusing to obey a lawful command. I refer the Court to RO 1809, para 2, which says "the unreasonable refusal by an officer or soldier etc". The Prosecutor has certainly not proven that this man was not inoculated on the 5 Oct, there has been no evidence produced that the man was not inoculated. Further Anderson has been inoculated before, he is recently from Canada and may have been under the impression that the rules here were the same as in Canada, that may explain his hesitancy at the time to inform the MO that he had just received an inoculation. Under the RO that I have just quoted a man can only be convicted if his refusal was unreasonable, in this case the man having been inoculated on the previous day, his refusal on the 6 Oct 44 would seem to be reasonable and therefore not guilty as charged.

COURT IS CLOSED TO CONSIDER THE FINDING

COURT IS RE-OPENED AND THE PRESIDENT ANNOUNCES THAT THE ACCUSED IS FOUND NOT GUILTY

WJ