

TC: May it please the court, the defense has introduced three motions, based, I take it, upon paragraph 71(a) of the Manual for Courts Martial, motion for finding of not guilty predicated on the evidence.

Though I know that the law officer is well aware of the contents of that section, I again respectfully invite it to his attention and remind him that this is the scintilla-of-evidence rule. It merely asks that there be some evidence as to each specification, thereby leaving the charge to stand so that the court, in their official capacity as jurors may consider it; and, if I may quote from the bottom of page 109:

"If there is any substantial evidence which, together with all proper inferences to be drawn therefrom and all applicable presumptions, reasonably tends to establish every essential element of an offense charged or included in any specification to which the motion is directed, the motion will not be granted" -- which, from the language there, not only includes the specification alleged, but any specification which might be reasonably included therein, or what we call, under the Code, a lesser included offense.

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While the prosecution specifically state that it is their contention that there is sufficient evidence which has here been presented to each and every allegation or element of proof going toward the offense charged, we are merely pointing out that the motion will not lie in cases referring to a lesser included offense.

LO: But, Major Sevier, the scintilla-of-evidence rule is not the governing rule.

TC: I was merely paraphrasing this quotation which I read. The quotation which I read, of course, is the controlling one.

LO: The rule is that there be sufficient evidence, and such substantial evidence, brought forth in the case by the prosecution that reasonable men would be in accord in holding that a rational hypothesis other than that of guilt may not be drawn from the evidence. That is the principle, not the scintilla rule. In the O'Neil case the scintilla rule is not the rule, and I suggest you proceed on that basis.

TC: Thank you, sir.

As to the exact motions, I believe charge 2 and the specification thereunder known as "oppression" is the first defense motion. Now "oppression" has been known in military law before. We have the case of United States v. Dickey, reported in 20 C.M.R., 486, which makes specific mention of the adoption of the present Article 93, which appears to have been the result of a proposal by the Navy. Prior to the enactment of the Uniform Code of Military Justice, Section B(10), Article 8, Subparagraph 2 of the articles for the governing of the Navy provided punishment for any person guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders. That is more specifically set forth under the old Naval Courts and Boards in Chapter II, at page 35, which says that cruelty, what they call

cruelty toward, or oppression or maltreatment of, a person subject to his orders -- they speak of the accused, and they say that the charge generally used is the last, maltreatment, and that that generally includes both the other two. Thus, maltreatment was the more serious offense, and oppression, as used in the rules governing the Navy, would have been a less serious offense thereunder.

The charge of oppression is not unfamiliar to the Navy and has been known for some time, and I believe there are a series of old courts martial reports of some cases going back to 1915 or before which specifically mention these charges.

The discussion of oppression which is set forth in the Manual at page 325, in Paragraph 172, describes the offense as cruelty and maltreatment. However, the Code, the actual article thereof, mentions oppression. I will not read that portion of the manual, since the law officer is familiar with that.

Now the defense has made a great effort to attempt to show that oppression is equivalent to tyranny. However, even the Manual provision as to maltreatment, which is the more serious offense, does not provide an equivalent of tyranny; and I again point out that the maximum penalty provided for conviction of oppression is no more than one year's confinement at hard labor. So I don't think it would be the equivalent at all of an act of tyranny of such heinous proportions as is attempted to be set forth by the defense.

In the case of U. S. v. Dever, which is reported in 14 Federal, the Court at that time stated that the word "oppression" has not acquired a strictly technical meaning and, in this statute, may be taken in its ordinary usage, which is an act of cruelty, severity, unlawful extraction, domination or excessive use of authority. Further, it is not essential that an unlawful act, or the excessive use of authority in an act, should result in a serious injury to a person to make it oppressive.

Now the elements of proof of the charge of oppression, under Article 93 of the Code, are that certain persons named or known or easily identified were subject to the orders of the accused, and that, at the time and the place alleged, the accused oppressed the aforesaid or aforescribed persons, and that he oppressed them in the manner alleged. Those are the sole elements of proof for that offense. However, there is one additional fact there which, of course, the court, in its deliberations, must consider, and that is the manner alleged specifically of an act of cruelty or oppression or mistreatment.

In this case we have an overwhelming degree of evidence to show a design or a plan to mistreat and oppress members of Platoon 71, beginning with the day of April the 8th. We have the first field day, which was unusual. There can be no other inference or reason for that field day except as a matter of punishment. We have another field day -- unusual. We have testimony that it was not for the purpose of cleaning the

barracks, but that they were swabbing and sweeping over and over the same area again -- punishment. We have testimony that three recruits of that platoon were taken into the drill instructor's room and were slapped, actually were the victims of assault -- all of this building up during the day. Then we have, at night, in the dark, over strange, unfamiliar terrain, down into a tidal creek, the taking of seventy-some-odd untrained recruits, young lads -- the court has seen most of them -- seventeen and eighteen, some just out of high school, some who hadn't even finished high school -- those lads are marched into a tidal creek which, by the accused's own statement, his confession, was at high tide and the current was strong. We have the testimony of these recruits that they were sinking into this mud and slime, some up to their waists, some deeper, that they were losing their footing, some going over their heads. We have the testimony that some were non-swimmers; we have the testimony that some were afraid; and certainly we have the testimony, brought out by the defense and made much of, that there was a panic.

Now I can hardly foresee that anyone who is panic-stricken, or caught up in a panic -- you could not say that he was not being oppressed when he was marched in there, ordered in there. He did not go in by his own free will. He would not have been in there had it not been for the acts of the accused.

And, along this line, I wonder if Thomas C. Hardeman, Donald F. O'Shea, Charles F. Reilly, Jerry L. Thomas, Leroy Thompson and Norman A. Wood, as they were getting out in the current of Ribbon Creek and as they were sinking in the water over their heads and as they were going down, helpless, grabbing at each other and at anything else, just prior to the time they were to be drowned, I wonder if they thought they were being oppressed. I doubt that they had the time, but, certainly, there is an act of oppression and we have the testimony in the record of such act of oppression.

We have the testimony of others. Some were taken to sick bay. All of them came out of the creek wet, cold, shaking. Some were without their clothing. Some were forced to march all the way back across that unknown terrain barefooted. We have the testimony of some that their feet were actually hurt and cut and bruised.

I don't think I need to enlarge any more. If those are not acts of oppression, then it would be difficult to show what oppression really is.

Now the defense has moved to strike charge 3 and specification 1 thereunder, the specification alleging involuntary manslaughter by culpable negligence. Mainly, a motion laid under Paragraph 71 of the Manual for Courts Martial is a motion on evidence, where it is mostly a matter of discussing the evidence, weighing it, pointing out wherein the evidence is sufficient.

As for the elements of proof under charge 3 and the specification thereunder, the elements are that involuntary manslaughter is defined as unlawfully causing the death of another by culpable negligence, and to find the defense guilty of this offense the court must be satisfied by legal and competent evidence beyond a reasonable doubt that the persons named or described are dead and that their deaths were unlawfully caused by the acts or omissions of the accused, as alleged in the specifications, and that such acts or omissions of the accused constituted culpable negligence; and, further, that the killing of any human being is unlawful when done without justification.

There can be no doubt that we have had sufficient proof, and the defense has admitted in open court by stipulation that the persons described therein are dead, that they died by drowning. We have the death certificates and we have the prosecution's exhibits, the pictures, to identify them.

Now, as to whether or not there was negligence, I again direct or invite the court's attention to Section 198(b) of the Manual for Courts Martial, where it states: "Involuntary manslaughter is an unlawful homicide committed without an intent to kill or inflict great bodily harm; it is an unlawful killing by culpable negligence. . . ."

"Culpable negligence is a degree of carelessness greater than simple negligence. It is a negligent act or omission accompanied by a culpable disregard for the foreseeable consequences to others of such act or omission."

It is not an act carried out where the accused must have actual, conscious notice of the exact consequences of his act. It is whether or not a reasonable, normal man, under the same circumstances or like circumstances, could reasonably foresee that his act would result in injury --

that is definition of ordinary negligence - not culpable negligence

LO: Would probably result.

TC: Would probably result -- thank you, sir.

Now let's again review the particulars we have in this specification.

TC: First we have Ribbon Creek and the Court and the Law Officer themselves have seen Ribbon Creek. There is the testimony of the type of place which Ribbon Creek actually is, covered on the bottom with mud and slime, uneven, pitted, holes in the bottom. It's a tidal creek with a current and the current moving, moving anyone or pushing them, pulling them out into the center in deep water. At the time of night when these untrained, raw recruits, were marched, ordered, this creek, by the testimony which is in the record, was high, the tide was in. The recruits were taken into a place where they had never been before, they were untrained, in no way were they fit to be taken into such a dangerous body of water. The accused himself was unfamiliar with this creek. His activities of the day are well charted by his own statement, his activities of the previous day, Saturday, wherein he had the duty, are well charted. There was no prior reconnaissance made of this creek because his activities, by his own statement, show he never had time. We know the evidence is clear where he was on Friday and the Sunday -- Saturday and the Sunday prior to going into this creek. There were no precautions. There were no orders to the non-swimmers. Yet, we know that the accused knew that he had non-swimmers in this platoon and by even the simplest degree or the least amount of diligence the accused could have ascertained that that water would be over the heads of some of his men. It was probable they would get over their heads, it was probable the non-swimmers would be in danger, which, in fact, we know they were in extreme danger and at least we are extremely fortunate that more of these men were not lost in that creek that night. As for the non-swimmers, we have testimony that the accused himself took them to swimming instruction, we have testimony that the non-swimmers were segregated from the swimmers for special instruction, we have testimony that prior or during the march and prior to the time they left Building 761, the accused asked about non-swimmers. He must have known that he had non-swimmers in his platoon because the very statement, "those who can't swim will drown, those who can will be eaten by the sharks". No matter in what light you take that statement there is evidence of knowledge that he had non-swimmers, and to take any non-swimmer into water over his head or to take a non-swimmer even into a swimming pool is extreme negligence, but to take a non-swimmer out on a dark night into a tidal creek, that is more than simple negligence. That's culpable negligence, gross negligence, almost to the point, wanton negligence, indifference to any probable result.

Now, the last motion goes to Charge 4.

LO: I presume you consider you are answering Specification 2 of Charge 3 by your answer to Charge 2 and specification thereunder?

TC: Yes, sir, Specification 2 I don't believe needs any further argument on it. Charge 4, alleging a violation of the Uniform Code of Military Justice, Article 134 -- now, the charge there is

not as exactly as the defense stated in their argument. It is not drinking in the presence of an enlisted man, it's the drinking in front of a recruit by one who is his superior, his duty drill instructor, the man who has been assigned to indoctrinate that recruit in the orderly conduct for a United States Marine. Now, as for the evidence, we have sufficient evidence in this regard showing that the accused, Sergeant McKeon, was the duty drill instructor on 8 April 1956. He was the duty drill instructor at the time that he called Private McPherson into his room. We have Private McPherson testifying that he saw the bottle, he knew it was vodka, and I believe the accused even mentioned that it was vodka he had. There was this bottle being waved in front of McPherson's eyes by his duty drill instructor. He saw McKeon raise the bottle to his lips. In open court, by demonstration, we saw that the fluid contents in that bottle came up above the neck of the bottle. Now, all McPherson has testified to, that he says he has no memory at this time of seeing the accused take the cap off or of not seeing the accused take the cap of that bottle off. Gentlemen, there is only one reasonable inference there, men don't raise the bottle up to their lips, bring the fluid contents down in the neck just to nibble on the plastic cork of a liquor bottle.

Now, in addition to McPherson's testimony on this occasion, we have Private Grabowski who returned from church at about this time and met the accused in the hall or the accused came out in the hall to find out what some of his troops were doing there and Grabowski noted the smell of some sort of alcohol or liquor on the accused' breath. Again it corroborates the witness McPherson. Again, we have the Bogen's test later on and even the testimony of Dr. Atcheson, and at a later date he, too, smelled liquor on the accused' breath, and the Bogen's test would indicate there was some alcohol in the blood system, all corroborative that there must have been some drinking. We have the evidence there of McPherson, he saw him place the bottle to his lips. There is no other inference that can be drawn, sir. I don't think I need to dwell on the status of a recruit, the reason for the recruit to be here in boot camp for his indoctrination, the respect which we try to build up in him for his non-commissioned officers, that his non-commissioned officers are set forth here in this Recruit Depot to be the examples for these young and impressionable enlisted men when they are brought out for recruit training. They are the patterns, the mold by which we hope to see influence that Marine that he will pattern his life in the Marine Corps after these drill instructors and turn out to be the polished, efficient, loyal Marine which we must have.

Clearly, such an act by a drill instructor while on the duty status is conduct to the prejudice of good order and discipline and nothing further need be said concerning that specification and charge.

LO: The defense has made certain motions and after due consideration the Law Officer is now ready to rule. Specifically, the defense moves, one, for a finding of not guilty with respect to Charge 2 and the specification thereunder; two, for a finding of not guilty with respect to specification 1 of Charge 3; for a finding of not guilty with respect to specification 2 of Charge 3; and for a finding of not guilty with respect to Charge 3. The defense further moves for a finding of not guilty with respect to the specification of Charge 4 and Charge 4. Subject to objection by any member of the court, I am now prepared to make my rulings as follows: the motion for a finding of not guilty with respect to Charge 2, and the specification thereunder, is denied, is not granted; the motion for a finding of not guilty with respect to specification 1 of Charge 3 is not granted, is denied; the motion for a finding of not guilty with respect to the specification 2 of Charge 3 is not granted, is denied; the motion for a finding of not guilty with respect to Charge 3 is not granted, is denied; the motion with respect to a finding of not guilty with regard to the specification of Charge 4 and of Charge 4 is not granted, is denied.

All the motions presented by the defense counsel this morning have been denied.

DC: Mr. Law Officer, will the Law Officer inquire as to whether or not there is an objection from any members of the court?

LO: The court has been informed that all of these motions have been made subject to their objection, each of them has been. All of the rulings upon the said motions, made by the Law Officer, are made subject to objection by each member of the court.

PRES: Before the court makes a final ruling on the rulings by the Law Officer, I propose a recess until 10:30.

The court recessed at 1015 hours, 30 July 1956.

DC: Mr. President, Officers of the Court, Mr. Law Officer, we have consulted. It is the Sergeant's desire to take the stand and testify fully and truthfully.

LO: All right, counsel, will you administer the oath.

Staff Sergeant Matthew C. McKeen, the accused, was duly sworn and testified as follows:

DIRECT EXAMINATION

Questions by trial counsel:

Q Will you state your name, rank, organization and Armed Force?

A Yes, sir, Matthew Charles McKeen, Staff Sergeant, H and S Company, H and S Battalion, United States Marine Corps.

Q Are you the accused in this case, Sergeant?

A Yes, sir, I am.

TC: Your witness, sir.

Questions by defense counsel:

Q All right now, Sergeant, you are on the stand so do the best you can, relax, try to listen and think of each question that you are being asked, whether it be by me, by trial counsel, or by any member of the court, and will you permit me, please, to first advise the witness if you don't know what a question means, or if you don't know the answer to a question, don't try to guess what is in the mind of the questioner, and don't try to guess at an answer that you don't know the answer to.

A Yes, sir.

Q All right, how old are you, Sergeant McKeen?

A Thirty-one years old, sir.

Q Are you married?

A Yes, sir.

Q Do you have a family?

A Yes, sir, I have.

Q Consisting of what?

A Baby girl, and a boy.

Q How old?

A Five years old and the boy is one year old.

Q And are you living here shortly off the Base with your wife

and family?

A Yes, sir, I am.

Q Where do you live?

A Port Royal, sir.

Q You might keep your voice up, Sergeant.

A Yes, sir.

Q Now, where was the home of your birth?

A South Acton, Massachusetts.

Q And during your childhood did you go to school?

A Yes, sir, I did.

Q And how much education did you have?

A Ten years of school, sir.

Q That would be through the second year of high school?

A Yes, sir.

Q Now, did there come a time when you enlisted in some branch of the Armed Services?

A 1942, sir, I joined the Navy.

Q And how old were you at that time?

A Seventeen, sir.

Q Now, will you tell us, please, after you joined the Navy, what duty assignment you received?

A I went through boot at Newport, Rhode Island; shortly afterwards I went on the commissioned carrier Essex at Newport News, Virginia. In '43 we left Virginia, went down to the Canal and in the Pacific.

Q And how long were you aboard the Carrier Essex?

A I stayed aboard it all the time, sir, until it was decommissioned.

Q And how long was the Carrier Essex in combat waters in that '43-'44 period?

A I'd say roughly two and a half years, sir.

Q And in that course of time you were aboard her what combat operations did the Carrier Essex participate in?

A Well, the best I can recall was down around Bougainville, Rabaul, the Gilberts, Marshalls, Marianas, Iwo Jima, up through Okinawa.

Q During that period of activity aboard the Carrier Essex was the carrier in combat?

A Yes, sir.

Q Strafed and hit?

A Yes, sir.

Q You say you stayed aboard her until she was decommissioned? Where did that take place, do you know?

A She was decommissioned in Bremerton, Washington; State of Washington.

Q And how long did you remain -- what was your total period of service with the United States Navy?

A Approximately 40 months.

Q Forty months?

A Yes, sir.

Q And at the conclusion of that period did you receive an honorable discharge?

A Yes, sir, I did.

Q Now then, following that -- try and speak a little more distinctly, you don't help yourself by leaning right in the microphone, keep you head up and speak into it.

A I never spoke in one before.

Q Now, then, following your honorable discharge from the Navy, what did you do?

A I worked around about a year and a half or so in a machine shop.

Q Whereabouts?

A In Worcester, Massachusetts.

Q Was that then your home, or the home of your family, your parents, brothers and sisters?

A Yes, sir, it was.

Q What kind of work did you do in the machine shop?

A I ran a heading machine, what they call a heading machine.

Q What does that do, this heading machine?

A It puts tops on these bolts and rods, et cetera, pistons.

Q In any event, following that period of approximately a year and a half, did you enlist in any branch of the service?

A I joined the Marine Corps in May, 1948, sir.

Q Had there been other members of your family, male members of your family, who had been Marines?

A Yes, sir, I had a brother, James, and Edward.

Q Two brothers?

A Yes, sir.

Q Who had been Marines during World War II?

A Yes, sir, they were.

Q When you enlisted in the Marines in 1948 was it just for a hitch or did you have in mind making a career out of service in the Marines?

A I had intentions of staying for a career, sir.

Q Upon your enlistment, were you assigned to boot training?

A Yes, sir, at Parris Island.

Q Do you have any recollection of when it was that you arrived on board here for boot training?

A In early May, sir, somewhere around the 8th or 10th of May.

Q Of what year?

A 1948, sir.

Q Do you happen to remember what platoon you were put in?

A Yes, sir, Platoon 82.

Q During the course of your boot training here at Parris Island in 1948 was your platoon taken into the marshes and boondocks, swamps and marshes of Parris Island?

A Yes, sir, they were.

Q Once, or more than once?

A On several occasions, sir.

Q And were you taken in by any superior?

A Yes, sir.

Q Who?

A The drill instructor, sir.

TC: I would object and ask that it be stricken, unless they show exactly where, whether it was in Ribbon Creek, at the point in question.

DC: Mr. Law Officer, so far as the practice is concerned, we are making no distinction between one and the other. It may have some effect on questions of judgment in this case but it has no effect on questions of fact, in my humble judgment.

LO: I think you should show, in connection with this practice, similar practices or customs, if you intend to show practices or customs, but I think the general reference to swamps and boondocks ought to be pinpointed a little more, to bring it closer to the Ribbon Creek situation we have here.

Q In connection with the swamps, marshes or waters you were taken into, where was it?

A The first time I got acquainted with the swamps or marshes was with the platoon in the Elliot's Beach area, and the second occasion was behind the barracks at the rifle range.

Q When you refer to behind the barracks of the rifle range are you referring to an area behind these buildings that I am pointing to now (indicating on mock-up)?

A Yes, sir, I am.

Q And are there in that area marshes, ditches and cuts in which there is water?

A Yes, sir, there are.

Q And were you taken into that water?

A Yes, sir, we were.

Q Did you say it was on a few occasions?

A Yes, sir, a couple of occasions.

Q How high was the water on you into which you were taken as a recruit?

A Just a little above my knees, sir.

Q Was there anything done in connection with your being in that area at that time?

A Yes, sir. There was a blast on this whistle, squad leader's whistle, which would indicate an air raid, and we all had to hit the deck.

Q In this water and mud?

A Yes, sir.

TC: I am going to object. He hasn't shown any proximity to this area. In fact it doesn't even show on the --

DC: It shows on Prosecution's Exhibit 27, however, which is in evidence.

LO: Will you have the witness indicate specifically the water? The beach area behind the barracks and in the rifle range, is his testimony.

DC: No, there is no testimony about a beach area, except that he said on one occasion he was at Elliot's Beach.

LO: Well, Elliot's Beach. Ignoring that, for the moment, behind the barracks in the rifle-range area -- you intend to have him show some area there generally. I think it would be well if you would --

DC: I only asked with reference to the barracks, whether these are the buildings he means, the barracks at the rifle-range area.

LO: And you have not, on that plat, indicated any marsh area.

DC: I have not indicated any marsh area, because it is not indicated on this plat, as you will observe. It is, however, I think, indicated on Prosecution's Exhibit 27.

LO: I would suggest we develop that. Otherwise, we don't know where we are, and, otherwise, I don't think we can very well say other similar circumstances.

DC: I think, Mr. Law Officer, that we apparently are not of one mind, I regret to say, about what similar circumstances are. In so far as showing a pattern of unscheduled exercises in the swamps and boondocks and marshes and water, I do not think, and I respectfully submit that we certainly should not be limited to Ribbon Creek simply because this incident occurred at Ribbon Creek. It may be a factor for the court to take into consideration, but the practice itself is one of unscheduled night marches or night exercises in waters and marshes, and so forth, and that is what I propose to prove, not only through this witness but through others, and I am not limiting myself, nor do the facts limit themselves, to Ribbon Creek.

LO: You are not limited to Ribbon Creek, but you are limited to a showing of a practice under similar circumstances to Ribbon Creek.

DC: Very good, sir.

TC: My objection still stands. We have not shown any area where the witness is testifying, so we ask that the testimony be stricken.

LO: I will permit the testimony to stand, subject to connection as a similar circumstance. You can move to strike it if it's not shown to be a similar circumstance.

TC: Thank you, sir.

Q Do you have in mind any specific buildings by number when you refer to that area behind the barracks at the rifle-range area?

A I can't recall, but I know the location of the barracks brought back memories of my rifle-range time out there when I was in a rifle-range platoon.

DC: I respectfully call the court's attention to --

TC: I object. I think the proper way is to have the witness come down, rather than the statement of counsel.

DC: I am not going to ask the witness to do any map reading. All the officers of this court are just as able to see a water area behind the barracks as by having the witness point it out.

TC: He should let the witness point it out.

DC: This pinpointing is not what I am trying to prove here. I am trying to show that there is an area of water and marsh behind the barracks, into which the witness was led.

LO: Address the question to him.

Q Are you referring to that area behind the barracks in which there was water, marsh and swamp that you were taken into?

A Yes, sir.

Q That is the barracks on the rifle range, shown on this plat --

DC: By the way, did we get some number for this?

LO: The plat?

DC: Yes, sir.

LO: Yes, sir, I think we did -- it would be K. I don't think we marked it.

DC: Mr. Reporter, would you kindly note that Defence Exhibit K in evidence is a plat or mock-up of the rifle-range and Ribbon-Creek area?

The plat or mock-up referred to is marked in evidence as Defense Exhibit K.

TC: If it would be permissible with the defense that we take a photograph of this and include it in the record --

DC: I have already stated that in the record.

TC: All right.

Q My question to you -- and I withdraw the question on the record and reframe it -- is that when you had been taken into water above your knees -- did you say?

A Slightly above my knees.

Q In the area behind the barracks on the rifle range, did you refer to the area where there was water and marsh and swamps, that combination of things which is called on this Island "boondocks"?

A Yes, sir.

TC: I object, for two reasons. One, it's leading, and, second, we need the testimony and knowledge of the witness in showing the areas, is what I am objecting to.

DC: This is not an adequate description of the area?

TC: Let's have the accused describe it, rather than defense counsel.

LO: That would be proper, but I think, under the circumstances, since he has a map before him which, at this distance, the witness can see, and since he is pointing to an area behind the barracks he testified to, we can allow it.

TC: That is my objection, since it is defense counsel testifying and not the witness.

LO: Yes, but there is only one water area behind it, as I see it from this distance.

TC: Is my objection overruled, sir?

LO: It is overruled.

DC: This is a gratuitous comment, if I may be allowed to make it. This map is in evidence, and certainly it can come at any time under the view of the court.

LO: But you can have the witness testify, Mr. Berman, to the area. I have not tried to restrict you, but I think you know that is a good practice.

DC: I know that is good practice, but I have given my word to proceed with it with all celerity, in accordance with the rules of evidence, and I am trying to do that, without confusing the court or anyone else.

LO: You are permitted some leeway.

DC: Very good, sir.

Q Did you graduate with your recruit class, your platoon, rather?

A Yes, sir, I did.

Q Following your graduation with your platoon -- withdrawn. By the way, do you happen to remember the name of the drill instructor who you said took you in there on several occasions?

A He was killed in Korea, sir.

Q Do you know his name?

A Arriva, sir.

LO: Do you know how it is spelled?

WIT: No, sir, I don't, Captain.

Q Well, in any event, following your graduation with the platoon, what was your career -- and tell us all about it -- during this first enlistment of yours in the United States Marines?

A In 1948 I went to sea-school in Portsmouth, Virginia. I believe it was a five-weeks school; I can't just recall how many weeks it was. Upon graduating there we went immediately aboard the U. S. S. Columbus, which at the time was the Flag Ship of Admiral Connolly, and stayed aboard there approximately twenty months in Mediterranean and Scandinavian countries. Our home port was England. Upon returning to the States in the last part of 1949, I think it was December, right around December, I did duty at the Charleston Navy Yard for approximately three or four months; and from there I went to Quantico, Virginia, to a school demonstration outfit, Baker Company. I stayed at Quantico until I was discharged in 1952.

Q What does that mean, a school demonstration outfit?

A Well, we ran problems and put on demonstrations for basic school.

Q For basic officers' school?

A For the second lieutenants going through school there.

Q What phase of those problems did you demonstrate? Did you have any particular specialty in regard to the problems that were being taught?

A Fire-team tactics and squad tactics.

Q Those are combat tactics, are they?

A Yes, sir. It's the different positions a fire-team squad could get in if it was in combat, such as a wedge, echelons, et cetera.

Q How long were you at Quantico in this school-demonstration or problem-demonstration unit?

A I was there approximately two years, almost two years, I guess, 1950 to '52.

Q And at that time did your enlistment expire?

A Yes, sir, it did. I was discharged at Quantico.

Q An honorable discharge?

A Yes, sir.

Q Did you, within a short time, reenlist in the Marines?

A Yes, sir. I got out in May and I reenlisted in September of the same year.

Q That would be September, 1952; is that correct?

A Yes, sir.

Q So that by that time, including your Navy service and your first enlistment in the Corps, you had some seven and a half years, approximately, of experience in the Armed Services; is that right?

A Something like that, sir.

Q Incidentally, when did you get married?

A In 1950, sir.

Q While you were in the United States Marine Corps?

A Yes, sir, while I was down at Charleston.

Q When you reenlisted in September of 1952 -- is that correct?

A Yes, sir.

Q What duty were you assigned to then?

A I was assigned to the Second Marines; Weapons Company, Second Marines, Camp Lejeune.

Q And how long did that division and that company remain at Camp Lejeune?

A Well, I left the weapons company, left the division, in December and went to Korea.

Q In December of 1952?

A Yes, sir. I went to Camp Pendleton, Camp 2 out there, and we took training for approximately a month or so; I don't know exactly.

Q Well, in any event you got to Korea?

A Yes sir.

Q At the time you arrived in Korea, was that theater in combat?

A Yes sir, it was.

Q What organization were you assigned to in Korea?

A I was assigned to Fox Company, Second Battalion.

Q You may be understood by everyone here, but it would help me if I could hear you better. You were assigned to what company?

A Fox Company.

Q Of what?

A Second Battalion.

Q What division?

A The First Marine Regiment, First Marine Division.

Q Was that the only Marine Division in combat?

A Yes sir, that was the only one over there.

Q And assigned to that organization what did you do?

A I was assigned to a machine gun platoon, sir. Took over, I believe, with the second or first section. I forget just now.

Q You took over a section of a machine gun platoon?

A Yes sir.

Q What activity were you put into?

A Well, Hill 229, and then we were up around Boulder City at the end of 76 Alley, they call it. I don't know what the hill number was.

Q And in connection with your duties did you remain a section leader of the machine gun platoon or did something else occur?

A Well, when the line was all secured over there we had to pull back I forget how many meters. Something like 12 or 15 hundred meters, and I took over the platoon then as Platoon Sergeant.

Q You became a Platoon Sergeant of a machine gun platoon?

A Yes sir.

Q While you were in combat as a section leader of this machine gun platoon how many machine guns, that is, at any one time was the largest number of machine guns under your command?

A Well, just before we secured I was attached to the third platoon, the Third Rifle Platoon, and we had to defend this little link, a finger.

Q A what?

A A finger running out over a patty there, and we had approximately as many as 15 to 20 machine guns on it.

Q Of which you were the leader?

A Yes sir. The Platoon Leader was out there. That is, the Platoon Leader of the third platoon who was a first lieutenant.

Q And did your section see combat action?

A Yes sir.

Q How long did you remain in Korea, Sgt. McKeon?

A Approximately 13 months. Thirteen or fourteen months. I don't know exactly. Around there.

Q And then what duty were you assigned to?

A I was assigned to Quantico, Virginia.

Q That would be what year?

A 1954.

Q And what duty were you assigned to at Quantico in 1954?

A I was assigned to Basic School as an N.C.O. instructor.

Q What did you do there?

A Taught second lieutenants the rifle, the B.A.R., the .45, the flame thrower, the machine gun, grenades, etc. Taught them all basic weapons.

Q And how long did you remain in that teaching assignment for basic officer training?

A About a year. Maybe a little over a year.

Q And while you were at Quantico at that time did that enlistment expire, your second enlistment?

A Yes sir, it expired last September.

Q In 1955?

A Yes sir.

Q And you were still at Quantico at that time, is that so?

A Yes sir.

Q And did you receive an honorable discharge?

A Yes sir, I did.

Q Did you then promptly re-enlist?

A Yes sir.

Q And upon your re-enlistment, this would be for your third enlistment, is that correct, in the Marine Corps?

A Yes sir, it was.

Q And upon your re-enlistment what duty were you assigned to?
A Well, they were looking for volunteers for drill instructors, and I figured if I went out to Drill Instructor's School I could improve myself in Squad Drill. I figured if I got to Drill Instructor's School, I could learn a little bit about it and advance my knowledge so I volunteered for Drill Instructor's school.

Q And was your application, or were you accepted in any event to the Drill Instructor's School?

A Yes sir, I was.

Q And was that school aboard Parris Island?

A Yes sir, it was.

Q And did you take your training here and graduate with your class at that Drill Instructor's School?

A Yes sir, I did.

Q Now, following your graduation when was it that you graduated from Drill Instructor's school, Sgt. McKeon?

A Around the first week in February. I wouldn't say for sure. Sgt. Myers said the third. Maybe it was the third. I guess it was the third.

Q Not the third week, the third day?

A The third of February.

Q In any event, upon graduating from that school or from that class what were you assigned to?

A I was assigned to Able Company, Third Training Battalion.

Q Now, was this the first time that you had ever gotten an assignment as a Drill Instructor?

A Yes sir, it was.

Q And after being assigned to Able Company of the 3d Battalion were you assigned to a particular platoon?

A I was assigned to serve with Platoon 55. I served with them for about a week and a half or two weeks.

Q As a junior drill instructor?

A Well, I wasn't a drill instructor. All I was was an observer. Just followed the platoon wherever they went and just observed what they were doing.

Q All right, and then?

A Then I was assigned as a junior Drill Instructor to Platoon 71. Sergeant Huff was the senior drill instructor.

Q That was your first platoon?

A That was my first platoon, sir.

Q How many drill instructors did that platoon have?

A We had 3 counting myself, sir. Sgt. Huff he was senior, and Sgt. King he was the other junior.

Q Now then, did you perform your duties as a drill instructor as soon as you were assigned that duty?

A Yes sir. I was assigned to Platoon 71 and we picked them up that same day.

Q Now, how long did the platoon stay on the main side, this Platoon 71? When you got them they were a platoon of raw recruits, is that so?

A Yes sir, they were.

Q In other words, this was not a platoon that had had other drill instructors and that you were taking over from?

A No sir, they were not.

Q Well then, how long did the platoon in its training stay on the main side?

A They were here approximately four weeks before they went out to the range. We had them a week before the training schedule really started.

Q And in the early phase, the early weeks of the training of Platoon 71 did they go through what you had been taught at Drill Instructor's School as a stage known as the "shock and fear" stage?

A They certainly did, sir.

Q What was the state of the discipline of these raw recruits during that early period when they were going through the shock and fear stage?

A They were an outstanding platoon.

Q Tell us about this platoon as you observed it from that point on until this tragic April 8?

A Well, when we first picked this platoon up, we immediately put them in the shock and fear stage. That is usually not any violence or anything, but we keep them moving all the time. Up until about a week before we went to the range, maybe a few days before we went to the range, you could see the platoon kind of slacking off. They had spirit, they had good morale in it, but I noticed the platoon was more or less working in groups. I suppose you could call it a buddy-buddy system. They weren't working as a unit, and they were told about it. Then we went to the range. The big thing I could see was that the drill instructors weren't with them all the time.

Q How is that?

A Well, in the morning you take them out to the school range, and you had to turn them over to the coaches. The coaches had them all day, although, the drill instructors assisted the range coaches in getting them into different positions and helped in fixing their slings.

Q But they were under the control of the range coaches, is that what you mean?

A Yes sir.

Q So what time did the drill instructors get them back?

A We got them back around 1630 in the evening, and we would bring them back, and wash them up. About that time they were ready for chow, come back from chow, take them to the Swimming Pool. When you would take them to the Swimming Pool you had to turn them over to the Water Instructors. They come out of the Swimming Pool about a quarter past 8. After they got out of the pool, you brought them back, and would have them write letters. You had to hold mail call for them and a lot of times it was close to 9 or after 9, and I had the duty to put them in the sack a little after 9 for the simple reason they had to get up early. I always figured to get the troops up at four o'clock or half past 4; get them out on the range a couple of hours in the sun and they would be dozing off or falling asleep, and a man never grasps anything if his mind is not clear.

Q So you got them to bed early or tried to?

A I put them in the sack around 9 o'clock.

Q What did you notice about the discipline of the platoon during this period from right before you got on the range, and as it was developing while you were on the range?

A As I said before, I noticed the platoon working in groups. The buddy-buddy system. Tell them to fall out, and they would fall out, but their manner was slow. In shock and fear if a man was slow you could walk over him, but then they came out of the shock and fear stage, and maybe started coming out too slow. For example, a man was falling out a little slow, the guy behind him instead of walking over him, he would slow up, and the one behind him, and the next thing you know they would all be walking. They would fall out and when they get out there maybe a quarter would be scratching their buttocks or looking up at airplanes, or whatever they might be doing when they all knew they had to fall in at attention. I would go up and correct them. I might ask if it was necessary to tell them the position of attention, and maybe give them a slight slap to put them in the position of attention. The kid would say, "No, it isn't, sir," and I would ask him what the position of attention is. Anyway, little things like that was adding up and adding up, and out on

the range Sgt. Scarborough brought my attention, I didn't think it was that bad, but he said that he had had quite a few platoons out there on the range, and he said this was without a doubt the poorest disciplined platoon he ever had, and he talked to Sgt. Huff about it, and Sgt. Huff was pretty well perturbed about it, too. I could see his point.

Q Now, let me ask you something. Talking about discipline, what did you notice during this period that you are speaking of with respect to their spirit and seriousness and eagerness?

A Well, the spirit and the eagerness to learn seemed to leave them. It seemed to have left them. I remember the first couple of weeks they were here they were very eager to learn, and they could learn, and they picked up quite quickly, but now it seemed like instead of picking up something of value they were picking up these goof-offs. How to sneak a smoke, how to stay longer in the chow halls, and little things like that. They were picking up bad habits.

Q When you had the duty did you try various methods for training them, and teaching them discipline?

A I certainly did, sir.

Q What did you try?

A Well, I had them at push-ups, had them getting off the deck, I had them on their feet on the deck, on their backs, on their stomachs, had them do stationery double-time.

Q You mean various forms of calisthenics?

A Yes sir. It seemed to work for a while. Seemed to work for maybe a day or two and then they seemed to slack off again and you had to slap it back on them. I used to give them a little bunk drill. If you put them in the bunks at night, some guys thought it was a great deal getting in the sack and would make a lot of noise, and when they get in the rack they are supposed to lay at attention. I was to get them out of the rack and on the deck, and they would do a few more push-ups, then back into the rack and out of the rack, and a few more push-ups.

Q In any event what did you observe about their spirit?

A The spirit is something tangible. You can't just put your finger on spirit, but you know it is there if it is there. If it isn't there you know it isn't.

Q Was it there?

A No sir, it wasn't there.

Q Now, fundamentally, these were not bad boys, were they?

A They were good lads.

Q Well now, with that situation brewing as you told us about, the platoon lacking both discipline and spirit, was that a matter of concern to you?

A It certainly was, sir.

Q What was your desire? That is, what was it you wanted to make of these men?

A Well, I liked to have an honor platoon like any other drill instructor would, I suppose, but I always thought if they went off this island knowing something about discipline then they would go off the island with something.

Q You mean you figured that was a foundation they would have?

A I always believed without discipline you have no foundation regardless. What you may put on top of that foundation in later years, the kid may become the best technician the Marine Corps ever laid eyes on, but when the chips were down if they didn't have that discipline, the thing would crumble.

DC: Mr. President, I have been standing on my feet now about an hour and a half. Would you be reluctant to grant us a brief recess?

PRES.: Very well.

DC: Thank you, sir.

TC: Will you warn the witness?

The witness was duly warned, excused, and withdrew from the courtroom.

PRES.: We will take a recess for 10 minutes.

The court closed at 1110 hours, 31 July 1956.

The court opened at 1130 hours, 31 July 1956

PRES: The court will come to order.

TC: Let the record show that all parties to the trial who were present when the court recessed are again present in court. Let the record further show that the accused, Staff Sergeant McKeon, has resumed the witness stand. Sergeant, you are reminded that the oath which you took previously is still in force and effect.

WITNESS: Thank you, Major.

TC: Your witness, sir.

DIRECT EXAMINATION, cont'd

Questions by the defense:

Q I think that the last thing I asked you was with respect to the lack of spirit, lack of discipline in the platoon. Now, getting down to the weekend of this tragic accident, what time -- withdrawn. Did you have the weekend duty?

A Yes, sir, I did.

Q And what time did you report aboard? What time did you report to barracks -- withdrawn. When the platoon was at the target range where were they billeted?

A At Weapons Training Battalion, sir, rifle range, we were billeted in Building 761.

Q And did they have that entire building or just what part of it did the platoon have?

A Platoon 71, we were billeted in the bottom deck, bottom deck on the extreme right-hand side, as you look -- extreme left-hand, as you are facing the barracks.

Q Let's see if I understand. I'm aware that the witness can point it out, but I think we can save time. If I am not able to do it I will ask him to come down here. This building that I'm pointing to has a number on it, 761?

A Yes, sir.

Q And I don't know whether you can see it from where you sit.

A I can see it, sir.

Q There are two sections here? (indicating)

A Yes, sir.

Q Representing two decks?

A Yes, sir.

Q Now, you say that your platoon was in the bottom first deck?

A Yes, sir, on the extreme left-hand there.

Q On the left-hand side as you face it? Let's point where I have the pointer now.

A Yes, sir.

Q And is this wing here that's shown, is that the squad bay?

A Yes, sir, it is.

Q Well, as you come in this building where is the drill instructor's room?

A As you come in that building -- that yellow marking there I suppose indicates the sidewalk?

Q Yes. Which one is it, the one on the left?

A The one on the left there, sir.

Q Yes.

A As you enter the building in the front door, there's a front door, --

Q Yes.

A -- you take maybe approximately, once inside the door you take approximately, maybe, 10 feet, take a sharp right, go down a little passageway there, it's the first door on your right.

Q So while the platoon is billeted in its squad bay here, the drill instructors' room, you come in, you take a right where they have a room for themselves, is that correct?

A Yes, sir.

Q And attached to this room and forming part of it there is a head?

A Yes, sir, there is.

Q And is this room -- in addition to the corridor you go through has the room got a door?

A Yes, sir.

Q Now, what time did you report for duty on the 7th of April, that would be the Saturday prior to the day of the accident?

A Approximately 5:00 o'clock in the morning, sir.

Q Had you been on duty the night before? That would be --

A Friday evening?

Q Friday?

A No, sir, I was not on that night before.

Q Had you been on duty during the day Friday?

A Yes, sir, up until around 5:30 -- 5--

Q In the afternoon?

A Yes, sir, 5:00 o'clock in the morning; 5:30 that evening.

Q Then you came aboard at about 5:00 o'clock on the morning of Saturday, the 7th of April, is that right?

A Yes, sir.

Q And then what time did you assume the full weekend duty?

A Well, that Saturday morning they were firing that Saturday morning and they secured back around 11:30 or so and that's when I took up the duty of the duty drill instructor for the weekend.

Q Was there any particular instance at all one way or the other that you can remember now that occurred on Saturday?

A No, sir, I cannot recall it.

Q All right, what, in general, were the activities on that Saturday?

A Well, as I said before they fired in the morning and they cleaned up their weapons in the afternoon, they washed clothes that afternoon, what they usually do during the weekend, such as their shooting jackets and cartridge belts. That takes up most of the afternoon, washing and cleaning those up, cleaning the weapons. After chow they usually send the people who want to go to Confession; the Catholics usually want to go to Confession, they go to Confession. After evening meal you can take them to the show.

Q Where is the show?

A It's in the Lyceum out there, Weapons Training Battalion.

Q Did you take them to that movie that night, Saturday night?

A Yes, sir, I took them that evening. It was custom to take them on Saturday.

Q Now, let's get down to this fateful Sunday, April 8. What time did you get up? Withdrawn. Did you sleep over at the -- with the men in the drill instructors' room that Saturday night?

A Yes, sir, I did.

Q You didn't leave the barracks at all?

A No, sir, I didn't. The only time I left, as I said, was to go to chow or to the movies.

Q What time did you get up on Sunday morning?

A I got up around -- I don't know, between 5:00 and 5:30 I got up.

back, down at the mess hall and back to the barracks 761. Usually if I give the non-Catholics a smoke after eating chow I'll give the Catholics a smoke. After they finished smoking I told them to get the squad bay squared away, which Sunday morning usually the Catholics -- say, well, take the Catholics, for instance -- they get up and wash up, shave and get ready for church services and they do not do any police work. They don't have time to police unless you get them up a little earlier. While they are gone the Protestants, non-Catholics, they will do the police work and then when the Catholics come back what they haven't finished the Catholics take up.

Q In other words, police up the place?

A Police up the squad bay and heads, et cetera.

Q When that was done what was the next duty? What's the next order of procedure? On this morning what did you then do?

A Well, I went topside. I went topside that morning just after the non-Catholic detail left. I was talking to another drill instructor who had his platoon billeted at topside but on the other end of the building 761.

Q In other words, the deck above and in the same building?

A In the same building.

Q What was his name?

A Sergeant Muckler.

Q Well, in any event after that what did you do? What did you do with respect to the men?

A I came back down after talking to him, I called Private Langone into the room. I called him in the room and told Private Langone, asked him if all the church details were back, he said they were, said they were all back, which was around 10:00 o'clock, I believe, and I told him that I didn't want to see any dirty laundry in the laundry bags come Monday morning, to get them out there and to wash up all the gear they had in their laundry bags and he made a comment that, "we did that yesterday, sir," and I said, "well, I notice some laundry bags in there with dirty gear in them, get them out and get them washed." When we don't have any dirty gear they can take a break or have a smoke or turn to on their personal gear or clean their weapons.

Q Well, having given them that instruction, what did you do then?

A I laid down in the rack there, picked up a newspaper. I don't recall anything that was in it of value.

Q That's all right, and --

A I laid down there maybe for about 15 or 20 minutes, just

reading a newspaper. I got up, walked out the drill instructors' room, took a right, went down the passageway there and about, oh, 15 feet, maybe -- possibly 20 feet down the passage way -- there's a passageway over to the left, which is a back entrance to building 761. I took that passageway and I looked out the door, I didn't go out, I just looked out, and I seen people down around the wash racks and I seen Private Butler and another group was sitting on the steps writing a letter, him and a couple more colored boys, I don't recall who the other colored boys were, but everything looked normal to me out there. In the squad bay, there was some troops in the squad bay shining their shoes.

Q In other words, things looked like they were under control and normal, is that right?

A Yes, sir.

Q What did you do?

A I went back to the drill instructors' room and laid down. The leg was bothering me quite bad that day.

Q Let me ask you something about that leg while we are at it. When you say bothering you, what kind of bother was it giving you?

A Well, it's a severe pain, all the way from the foot all the way up to the hip.

Q Which leg are you referring to?

A My left leg, sir.

Q How long had you had any trouble or difficulty or pain in your left leg before this day?

A Well, I'd say roughly three weeks, maybe longer.

Q And how did it affect the way in which you walked, if it did at all?

A Well, it certainly did. I couldn't bend the toes. Seemed when I bend the toes the ligaments running up behind the heel, it wouldn't stretch, I don't know much about the terminology.

Q The point is, did you walk normally or did you walk with some limp?

A I walked with a limp, sir.

Q Did you use anything to help support you as you were walking?

A Yes, sir, I carried -- what it was was a squeegee handle.

Q Well, a mop handle?

A Well, a mop handle, squeegee handle -- actually a squeegee handle, sir.

Q Had you at one time, some weeks before, turned into the

dispensary because of your pain?

TC: I want to make a note for the record here that -- let the record show that the examination is being conducted continuously by one series of leading questions after another.

DC: I didn't think there was much dispute about this. If this is not an issue you certainly ought to be able to let me get it in to expedite --

LO: I will allow the question.

Q Had you reported to the dispensary at some point or another and been examined by a doctor?

A Yes, sir, I did.

Q Can you recall how long before April 8, as far as your memory serves you?

A It was around the second week of March.

Q All right, and did you report there once or more than once?

A I reported there twice, sir, I seen Dr. Cummings.

Q Dr. Cummings?

A Dr. Cummings, sir.

DC: Incidentally, Major Sevier, do we have now the health record?

TC: We couldn't get it last night, no, sir. I sent for it this morning.

DC: Well, I can put that in at any time, then.

Q In any event, did your leg -- from the time you had gone to that doctor until this day of April 8th, had it improved substantially one way or the other, so far as the pain was concerned?

A I don't understand, sir.

Q I say, after you went to visit the doctor, on these two occasions in the middle of March, did your leg get better or remain the same or did it get worse?

A It got worse, sir.

Q All right. Well, then, getting back now to -- you say that you came back into the drill instructors' room. What did you do then?

A I laid down, sir, and I dozed off. I don't know how long I dozed off, but the next thing I remembered was Sergeant Scarborough, I heard him talking. I was facing the bulkhead and I rolled over.

Q He was there, was he?

A He was in the room, sir.

Q Now, at that time who was in the room?

A Well, when I actually got oriented to the room, when I woke up, sir, Sergeant Scarborough was in the room.

Q Anyone else --

A No, sir.

Q -- except you? Just you and Sergeant Scarborough?

A Yes, sir.

Q Was the door closed?

A Well, I heard a door close. I heard a door close just prior to that.

Q So it was closed, was it?

A Yes, sir.

Q Now, was there a talk had? Well, before we get to that, what was talked about first, anything of any importance? What was the general conversation?

A Well, the general conversation was regarding the platoon, regarding the platoon on the range, regarding their marksmanship and the big topic was the discipline of the platoon. Sergeant Scarborough was kind of pee'd off at them.

Q We say tee'd off around here.

A Yes, sir, I'm sorry.

Q All right, now, during that time and before either you or Sergeant Scarborough left to go anywhere, do you recall whether or not Sergeant Muckler came in?

A Yes, sir, he did.

Q And what, if anything, did he say?

A Well, Sergeant Muckler came in and he said, "Whose platoon is that out back?" Words to this effect, I can't say exactly what he did say, said, "Whose platoon is that back there crapped out on the lawn, crapped out in the back of the barracks?" I said, "It can't be mine, impossible," and he had a little grin on his face, and he said, "I believe it is yours." So I went out through that same passageway, you know, the back door, and Sergeant Scarborough was behind me. I opened the door and there they were, laying on the grass out there, some on their elbows --

Q Some on their what?

A Some was laying on their elbows in this manner. (illustrating).

Q And some --

A Some were crapped out on their back; others were lying face down with their arms underneath their head.

Q Was there anything wrong with that?

A Well, that's a cardinal sin; they should never do it. I can't explain, but they should never.

Q So, when you found that situation, what did you do?

A Well, I told the platoon -- I opened the door and yelled out for everybody to get inside. Private Butler, who was writing a letter, asked me if it was all right if him and the other few colored boys sitting there with him, all right for them to stay out there and finish writing a letter, and I told Private Butler, who was assistant section leader, "What kind of nonsense is this, you being a section leader and letting this go on?" I said "Don't you see those people out there lying around," or words to that effect.

Q In any event, did you tell him to go on in -- everybody inside?

A I told everybody to go inside.

Q When you got them inside, what did you do?

A They all got inside the squad bay, sir, and I walked down to the door leading to the platoon squad bay. I was going to give them "Up and on shoulders," numerous counts with the rifle, the right arm first, right hand first, numerous counts, have people count one, two, three, one, two, three, but I thought different of it for the simple reason that usually when you give them "Up and on shoulders," with that rifle, in the dark, in the squad bay, they do get a little tired going up and down, and then the rifle could accidentally hit the sacks, hit the racks, and I figured if I gave them "Up and on shoulders" the rifles would hit the racks and knock the dope off.

Q Knock what off?

A Knock the dope off their rifles.

Q What is that; the sight, you mean?

A That's the information they have got in firing; that's their data.

Q In any event, for that reason or whatever reason it was, you didn't order that; and what did you order?

A The next thing that came in my mind was a field day.

Q Well, did you order a field day?

A Yes, sir, I ordered a field day.

LO: I think this might be a good time for adjourning.

DC: I was going to ask you, Mr. President, what your views are with regard to lunch. We are not going to conclude this. Whatever your views are will suit our convenience.