

MR. SMITH: Will you be good enough to let us have the section?

MR. WHITELEY: Paragraph 3 on page 5 of the complaint, of the mimeographed copy, I read a few moments ago.

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MR. SMITH: Let me finish, Major --

MR. WHITELEY: Just a moment, Mr. Smith. I would like to call the Examiner's attention to the fact that this section has been pretty thoroughly discussed and argued on the record on previous occasions and in each instance the Examiner has ruled that testimony such as that which is now being offered is competent, relevant and material to the issues of the complaint.

THE EXAMINER: I am inclined to let it go in, but I will hear it you on it, Mr. Smith.

MR. SMITH: Let me finish, please, this remark, because I think it is quite important. We understand from counsel's statement that they claim that this evidence is admissible under paragraph 3 of the second sub-division of the complaint.

MR. WHITELEY: Paragraph 3 of the second count.

MR. SMITH: The second count. Now we object to this evidence, Mr. Examiner, first on the general grounds of its being incompetent and irrelevant and, secondly, because it is an attempt to prove something not even remotely charged