

Witness for the Defence

SECOND WITNESS.

All17180 Pte Dowdell, D.B. having been duly sworn states:

I am All17180 Pte Dowdel, D.B. When they brought the accused to the gate I went to the guardhouse with him as I was on duty and he was pretty drunk. When he was in the guardhouse I was the only one that could talk to him. After about fifteen or twenty minutes I got him to calm down and I put him in a cell.

QUESTIONS BY PROSECUTOR.

Q Did you know the accused before?
A Yes sir.

Q. In your opinion he was drunk, is that right?
A Yes sir he was very drunk.

R.P. 83(b) has been complied with.

SUMMING UP BY THE DEFENCE

To begin and in dealing with charge 3, stealing, the Prosecution has definitely failed to produce evidence which would warrant this Court finding the accused guilty. The only thin thread on this charge is the fact that the accused while suffering from a hangover stated that he picked up certain clothes and liquor in a hallway in one of the hundreds of Cafe's in Ghent. In my opinion this is not even remote circumstantial evidence, as there are no facts or even reasonable suppositions that the accused committed or was concerned in the theft of the articles as given by Mme Beyst.

With respect to the 4th charge a plea of Not guilty was entered not with the intention to disprove and relation to this charge, but because the Court would have asked him to plead Not Guilty in consideration of the circumstances. In referring to Chapter 7 (para 6) MML I read as follows. Chapter VII (para 9). The witness for the accused, Pte Dowdel stated that he was very drunk. This was one hour after being picked up by L/Cpl McDonald who also stated - "The accused was under the influence of liquor and that in my opinion he had had a considerable amount to drink. Obviously the accused had no opportunity to add to his drunken condition while in the custody of the Provost. It has been disclosed in the evidence that one tailored suit was picked up, somewhere in the town by the Provost and that this suit was identified by Mme Beyst as having been stolen with the other articles. The accused recalls to the best of his memory, that he gave a dress away. Would a man with criminal intent carelessly drop a ladies suit, further blaze a trail by giving a dress away, then leave himself open to arrest while walking around the streets carrying the evidence, two hours after the crime was committed? Did Jones find the clothes elsewhere even as he claims? This I contend is a far more logical supposition than the first one, because whoever stole the 10 dresses, 2 suits, 2 coats, 1 fur coat and 18 bottles of liquor even though these may have been 2 or 4 persons must have their found their burden not only heavy but conspicuous.

In my contention that the accused did not steal the articles I point out that Madame Beyst is not the only tenant of the building in which she is situated. That the common lavatory adjacent to her room serve everyone including her customers in her cafe. Beyst was confused about what was stolen but we will consider that to be unimportant. There is one question in my mind that nothing has been produced on evidence on these charges other than the fact that the accused was very drunk an offence with which he has not be charged.

SRK