

FIFTH WITNESS FOR THE PROSECUTION (Continued)

- Q. How did you know?
- A. From his looks, and the way he was sleeping.
- Q. You had no conversation?
- A. No sir.
- Q. You have an NCO IC the picquet?
- A. Yes sir.
- Q. Supposing you were correct in supposing that Foster was drunk what was your next duty?
- A. I should have reported to the NCO of the gd.
- Q. Did you do that?
- A. No, because I was going to do it myself.
- Q. What was peculiar about the way he was sleeping that made you think he was incapable of doing his guard duty.
- A. He was mumbling to himself and breathing pretty hard.
- Q. Did you smell his breath?
- A. You didn't have to, you could smell it all over the place.
- Q. What had he been drinking?
- A. I couldn't say.
- Q. Did you see Foster entering the kitchen?
- A. I only saw the open door.
- Q. You didn't watch him until he went into the kitchen?
- A. What do you mean?
- Q. Was it up to you to watch where he was going?
- A. Yes, whether drunk or sober.
- Q. At that time was he sufficiently under the weather that you thought he should go to bed?
- A. I didn't think.
- Q. You knew who should be on guard, you knew he was to follow you and you didn't do anything about it at the time?
- A. Yes sir.

QUESTIONS BY THE COURT

- Q. How did you know that the accused was to relieve you at 2320 hrs?
- A. The guard commander had told us.