

2nd

SECOND WITNESS FOR THE PROSECUTION (Continued)

- Q. What were the circumstances?
- A. Sgt. Walker went ahead and I went with him. First Sgt. Walker bent over him, smelled Foster's breath, he was sound asleep, and I did likewise.
- Q. Did it smell strongly of alcohol?
- A. It smelled of alcohol quite definitely.
- Q. On your visit to the orderly room what did the BM do?
- A. I was just behind Sgt. Walker at the time and only overheard the conversation.

QUESTIONED BY THE DEFENDING OFFR.

- Q. You say you smelled Foster's breath?
- A. Yes sir.
- Q. Could you tell what he had been drinking?
- A. No sir.
- Q. Could it have been beer?
- A. As well as any other liquor.
- Q. Was he drunk?
- A. He was asleep.
- Q. Did you awaken him?
- A. No sir.
- Q. Could you definitely say he was drunk?
- A. He was snoring pretty loudly.
- Q. Could you say he was drunk or not drunk?
- A. I would think he was drunk.
- Q. On what do you base your opinion?
- A. On the smell and he was sound sound asleep.
- Q. Why do you say sound sound asleep?
- A. Because of his snoring.
- Q. You base your opinion that he was drunk on the fact that his breath smelled of alcohol and that he was asleep?
- A. Yes sir.
- Q. From those observations could you say that he was incapable of performing any duty if you did not awaken him?
- A. I couldn't definitely say.
- Q. Do you know if the man was drunk or not?
- A. No sir.