

THE EVIDENCE IN THE CASE OF P-39779 Sgt JOHNSON, J V

DEFENDING OFFICER - The accused is not to make any reply until I have made a comment on the Charge Sheet.
(The Charge is read to the Accused).

DEFENDING OFFICER * One point to be brought to the attention of the Court and the Judge Advocate, under the foot note of Sec 18 on page 445, item No. 13, Disgraceful Conduct. As the Charge is drafted I take it that the prosecutor has endeavoured to comply with that proposition, but a statement of particulars is one thing and a definite charge is another thing. It is obvious from reading the Charge that two matters are cited. One, the invitation to go to bed and two, the actual physical act. The accused is entitled to know specifically what the Charge is.

JUDGE ADVOCATE - Are you objecting to the Charge?

DEFENDING OFFICER Which part of the Charge is to be stated as particulars and which part of the Charge is the specific act. That the Charge is disgraceful Conduct of an indecent kind and the deed constitutes all matters alleged in the particulars but it appears to read that the offence is that the accused invited Pte DOUCET into his bed.

JUDGE ADVOCATE - The Charge is "Disgraceful Conduct" and the particulars set forth the conduct complained of. Do you object to the Charge?

DEFENDING OFFICER No objection.

(The Accused pleads "Not Guilty").

FIRST WITNESS FOR THE PROSECUTION -

G-19638 Pte DOUCET, W N J, "A" Company, 1 Battalion, 1 Canadian Base Reinforcement Depot is duly sworn.

EXAMINATION BY THE PROSECUTING OFFICER

Q1. - Tell the Court what you know about this Charge.

A1. - "While in camp in NORTH AFRICA, on the night of 19 December 1943, I came into barracks at approximately 2250 hours and entered the Battalion Orderly Room about five minutes after this time. I only stayed a minute, went to the Mess Hall, returned very shortly and went once more into the Battalion Orderly Room. On entering the Orderly Room the accused offered me a drink of brandy. I accepted the drink, and just about this time Pte SHIELDS walked in. I took a mouth full of brandy and spit it out. The accused then made a statement "DOUCET, you are going to sleep with me tonight" so I immediately thought.

DEFENDING OFFICER - We are not interested in his feelings. On reading the Summary, it is evident that there is more hearsay evidence than admissible evidence and I propose to watch this very carefully throughout the trial, as supposition is not evidence.

FIRST WITNESS (continued)

- "I was standing by the other person in the room, Pte SHIELDS, at this time and I spoke to him. The accused then spoke again, this time saying, "DOUCET, you're going to sleep with me, do anything you want with me, fuck me all you want, and I am going to blow you". He said, "I am going to blow you" twice. I then amused myself for a minute and went out of the