

CASE OF

L.53427

Tpr

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PROSECUTION

THE PROSECUTOR STATED THAT THE FIRST WITNESS IN THE SUMMARY THE PROPRIETOR OF THE FEATHERS INN WAS NOT AVAILABLE AS HE HAD BEEN CALLED TO DEVON ON ACCOUNT OF SICKNESS OF HIS WIFE.

THE DEFENDING OFFICER STATED THAT HE DID NOT DEMAND HIS PRESENCE FOR CROSS-EXAMINATION AND FELT HE WAS NOT PREJUDICED BY HIS ABSENCE.

FIRST WITNESS

Lt N.J.L. STEPHEN, 6 Cdn Provost Coy, Cdn Provost Corps, having been duly sworn, states:

At approx 2100 hrs of 8 Jul 44 I was approached by the proprietor of the Feathers Public House. As a result of what he told me I went into the outer bar of the Inn and spoke to a man I now know to be Tpr Stewart of the CAC, and I told him the proprietor did not wish him to be on the premises and I asked him to leave. A Cpl stepped forward and said "we are not leaving this place until it closes". The other of the three was a Tpr Rasen whom I now know by that name and whom I recognize here today as the accused. I was not interested in whether the accused left the premises or not, it was Stewart whom I wanted to leave, and I didn't pay any attention to what the Cpl had just said to me, "we are not leaving this place until it closes". They refused to leave after I asked them twice, and on the last occasion I ordered them to leave. A struggle was evident and I ordered one of the men to go and get more members of the Provost Corps. The proprietor closed his entire premises saying for everyone to drink up their drinks and leave. I don't know if they all left or not as I did not remain in the premises to see. The men came outside after, and I ordered the members of the Provost to place these men under arrest and remove them from the premises, saying "place these men under arrest and remove them from the premises". The men adopted a very aggressive attitude when approached by members of the Provost and commenced to struggle. They were eventually overpowered and taken off the premises. Just after I ordered the men to be placed under arrest and removed from the premises I was struck by one of the men, L/Cpl Carvell.

- Q. Did the innkeeper tell you that he wanted them all removed or not.  
 A. He told me the one man, Stewart.
- Q. After getting outside and you ordered your men to take them into custody did the accused resist?  
 A. Yes, he did, I saw him struggling.
- Q. Would you say the accused was under the influence of liquor?  
 A. I wouldn't say extensively, although I would say he had been drinking.

CROSS-EXAMINED

- Q. Did the accused say anything to you inside the premises?  
 A. No.
- Q. Then why did you order him placed under arrest outside?  
 A. Because he failed to leave the premises when I ordered him to do so.
- Q. WHAT were the words you used inside the pub by way of an order?  
 A. The 3 of them were standing closely together and the words I used in ordering them were-----I'm sorry, I can't quote them now very well. TWY