

John Macintyre  
(J.D. Macintyre) Major,  
President, D.C.M.

THE PROSECUTOR REPLIES

In answer to the plea offered by the Defence I invite the Court's attention to two parts of the Extracts from the Manual of Military Law, first, the note to section 157 of the Army Act which says "A conviction by court-martial, if not confirmed, is of no validity: in such case, therefore, the accused has not been convicted, and may legally be tried again". That note also refers to chapter five, para 87 of the same book and I also invite the Court's attention to para 95 on page 65 which says that "As a conviction and sentence are not valid until confirmed, a refusal of confirmation, duly entered upon the proceedings, operates to annul the whole trial." In other words the man has not been placed in peril and the plea, I submit, cannot be a valid plea until the finding has been confirmed and this was not done and besides which we have an order for a re-trial.

J.M.