

EXHIBIT "G"

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

22.

THE DEFENDING OFFICER OFFERS A PLEA IN BAR OF TRIAL

At this stage I wish to offer a plea in bar of trial on the grounds that the accused has been previously tried for the same offence. In support of the plea I wish to call attention to Army Act, Section 157, and the part that I wish brought out is contained in the notes to Section 157, where it says "It is a general principle of English law that it does not permit a man to be tried twice in respect of the same offence but the application of the rule is not always easy. Where the same incident, or set of incidents, gives rise to two trials, the test for practical purposes, of whether the offence is 'the same' offence would appear to be this:- Could the accused have been lawfully convicted at the first trial upon any charge then before the court of the offence charged at the second trial? If so, the second trial is illegal and void." I am basing the plea, then, on that.

Jm