

August 4th, 1942.

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

District Court-Martial,
L.11288, Gnr. Edwin Mack DuBois, RCA
Att. C.A.T.C. (A1), C.A.



1. Receipt is acknowledged of your K.55-D-1422 (JAG) dated 29th July, 1942, under cover of which you forwarded for registration and custody the proceedings of the marginally noted District Court-Martial.

2. The following irregularities have been observed:-

- (a) There being only one charge in the Charge Sheet the word "first" in the marginal notation thereof was unnecessary.
- (b) The witness producing the document to the Court should have stated that same referred to the accused. See Note 1, Army Act Section 183.
- (c) The cost of meals should be set out in M.F.B. 1482 rather than in M.F.B. 1481.
- (d) I have already commented on the propriety of the transcription of the proceedings taken in long-hand.
- (e) It is observed that the Prosecutor adduced no evidence whatsoever as to continued absence. Evidence is adduced that the accused went absent on the day charged and was apprehended on the day charged, but no evidence whatsoever was given that the accused was absent during the intervening period. However, the accused elected to give evidence during the course of which he admitted his continued absence and, accordingly, he was not prejudiced.

3. The Finding and Sentence was confirmed on 27th June, 1942 and the proceedings were not forwarded to this Headquarters until 29th July, 1942. May a special report as to delay be provided under K.R. (Can) Para. 581.

4. It is not considered necessary to return the proceedings which are, accordingly, retained for custody. May the above noted irregularities be brought to the attention of all officers concerned for their future guidance.

*Noted
JAG*
A. C. Macdonald
Lt. Col.
CMA & S.

AUG 5 1942

HGH
Brigadier,
Judge Advocate-General.

EBB/amb