

May 15th, 1944.

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

Re: DISTRICT COURT-MARTIAL
C 1484, CDR. Everett Emerson MacDONALD,
No. 5A District Depot, C.A.

Receipt is acknowledged of your
K.55-Mc-568(JAG), dated the 8th May, 1944, under cover of
which you forwarded for registration and custody, the
Proceedings of the marginally-noted District Court-Martial.

2. Your explanation of the circum-
stances under which this man is shown to have been 59 days
in custody awaiting trial is noted.

3. The following irregularities have
been noted in the Proceedings:

(a) Although the three charges were tried together, the
Defending Officer asked and was allowed to put the accused
into the witness box to give evidence under oath on the
third charge only. The only way that this could be done in
conformity with the Rules of Procedure was to have the third
charge tried separately.

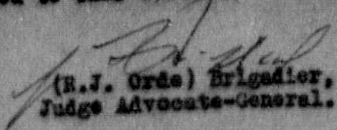
Attention is directed to Rules of Procedure 40 and
41, which set out the rights of the accused as to giving
evidence.

(b) M.F.B. 575, filed as Exhibit "c" is irregular in
many respects. The words "he was still an absconder" have been
written in with ink and they are not initialed by the Officer
certifying the document to show that they were a part of the
M.B. 68. Had the Defending Officer contested the validity
of this Exhibit as showing the beginning and continuation of
absence, the Court might have been bound to hold it to be
inadmissible.

It might be noted that the declaration itself is
not made out properly; the Unit or Appointment of the
President, Members, the Commanding Officer or the officer
having custody of the original record was not shown.

(c) M.F.C. 500, filed as Exhibit "L", is clearly not
a true copy of the original M.F.C. 500. If no printed form
was available to make a true copy of the original M.F.C. 500,
then the original should have been copied in full and offered
to the Court as a certified true copy.

4. The Proceedings are being returned
herewith that the above irregularities may be noted and
brought to the attention of all officers concerned for their
future guidance. When they have served this purpose, may
they please be returned to this office.


(E.J. Orde) Brigadier,
Judge Advocate-General.

FJT/S