

Defending

Counsel

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I would like to bring to the Court's attention the fact that the District Court Martial was ordered to be held on the 19th of September, 1941. It has been impossible for the accused to contact any witnesses in his own behalf, as any material witnesses who could be of any value are living in Vancouver. Prior to the Court opening, the accused was going to object to the jurisdiction of this Court, basing that on a letter from N.D.H.Q. which states, "I am directed to say that in the interests of discipline, it is considered he should be attached to No. 11 District Depot under the provisions of Routine Order 482, para 6 (a), where disciplinary action should be taken in respect to his desertion." However, the objection was not raised because it was felt that the Court might uphold the objection and refer the matter to Ottawa, thereby creating further delay. The accused already spent 72 days in close custody, which certainly seems to be an injustice. I would like to draw to the Court's attention the fact that orders were issued by a Staff Captain, Vancouver Defences, which sent the accused from Vancouver to Halifax. These instructions were dated the 23rd of July, 1941. N.D.H.Q. instructions as to the disposal of the soldier were dated the 31st of July, 1941. It is quite apparent that the Staff Captain, Vancouver Defences, acted without the proper authority, and by doing so, incurred transportation costs of over \$100.00 which are now charged against the accused. This was done directly against N.D.H.Q. orders which said for this man to be attached to M.D. 11, and disciplinary action taken there. MacDonald never had any intention of deserting the Canadian Army. He felt, as his C.S.M. at No. 6 District Depot felt, that he would never come back to M.D. 6. Most certainly an explanation is due him as to why his friends of his own unit, the 16th Lt. A.A. Bty., R.C.A., who transferred, had theirs accepted. I would like to pass to the president of the Court these letters, requesting they be given due consideration.

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