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## One-Man Court-Martial Criticized As Danger to Army Discipline

By HENRY E. ROWLAND

The campaign for President Roosevelt's re-election features the claim that he has never, as Commander-in-Chief, interfered with the professional and technical conduct of the war. To a Canadian the interesting point is that the American public seems to be aware of the danger of outside interference with military standards. In Canada, where a military critic is any one who can summarize the day's news, there is a disposition to regard the administrative end of the army as an extension of the civil service, distinctively decorated with red tabs and tape. Without a doubt the Canadian Army can handle the toughest enemy in the world, but apparently little can be done to protect it from disenchanting outside intrigues. The most sensational example of this is, of course, the Quebec Premier's declaration regarding desertion, which for some purposes removes the crime of desertion from military jurisdiction and presents it to civilian agronomists and mayors.

### Order-in-Council Cited

Slight notice, however, has been given the Order-in-Council, dated July 1, 1944, amending the Army Act and presenting the Canadian Army with a new streamlined court-martial called a standing court-martial. The members of this court may or may not have legal experience and are chosen at the discretion of the Minister of National Defense. They may serve anywhere in Canada, and one man in place of the traditional three may constitute a court. Its obvious advantage is speed, and the verdict is promulgated immediately without the customary reference to the district officer commanding or judge-advocate-general for review and approval. This latter and important staff duty as well as that of preliminary inquiry is effectively denied along with the age-old right of the soldier to object to the personnel of the court. The traditional types of courts-martial are retained but the accused is denied the right to ask for them, the selection being up to his commanding officer. At the Minister's discretion this new court may also be used for officers.

### Given Extensive Powers

This one-man court-martial is given extensive powers which are fully described in C.A.R.O., 1563, and the above is, of course, only an outline. Regardless of its virtues or the fact that it is a sharp break with military traditions built up over 300 years, the average Canadian will ask himself to what use this new legal system will be put.

For instance, the medical services under the Pulhems system, also a Canadian innovation, have functioned as a sort of clearing house for inefficient soldiers. The professional problem of getting enough psychoanalysts for the psychological features of this system was solved by putting young internes of all kinds through a fast six-month course. Hence, since Col. Ralston has announced that 70,000 out of 140,000 non-active draftees, who were accepted as young and healthy have been medically discharged, it is legitimate to ask what policy was involved or whether these men were discharged as psychologically no being responsible for themselves. On the legal side it is to be hoped at least that the members chosen for the new standing court-martial will not have to cram a course in military law in order to qualify for the exercise of their sweeping power; and at most with no bitterness intended in the remark, not selected from Provincial agronomists.

Law administered by a one-man court-martial, without the usual safeguards, may seem like rough justice, but it appears to be a logical development in Canada when it is considered that the army has long operated under a one-man Army Council. The original army council, prescribed by the Army Act, has its counterpart in the Admiralty Board or Naval Board, which still functions in Canada. The Army Council, however, was itself abolished in peacetime 1925 and replaced by the Minister of Defense, who, for all practical purposes, is the last court of appeal for professional and personal issues in the army administration. The present Defense Council, established Sept. 30, 1940, is composed of all the Ministers of Defense, their deputies and the chiefs of staff, and may serve an executive purpose well. The point

raised here is whether or not the restoration of the Army Council, for future Governments at least, would prevent some of the worst evils of outside interference.

### Esprit de Corps Important

No Canadian will say that the final military authority should not be political, nor that the executive direction of the war is not now where it belongs, in the hands, albeit, of a one-man Cabinet; and it may further be wrong to ask whether it is established constitutional practice to amend the Army Act by Order-in-Council. The army, however, is not the civil service, nor an industrial concern. Honor, born of war, and shared with the newest recruit, is its greatest possession, and its greatest punishment is dishonorable discharge. A severe but fair code is the key to Canada's military tradition and discipline. This balance of severity and fairness, characterized by scrupulous attention to detail, is the standard by which innovations like the standing court-martial must be judged.

With the one-man court-martial, one-man Army Council and one-man Cabinet in the background, it may be said that many new Canadian civil and military regulations seem to be related, in use possibly more than form, to a central proposition which is the mechanical application of modern psychology to society. This idea, with its negation of professional integrity as well as democratic rights, and with which Europe has obviously had so much trouble, is held, consciously or unconsciously, in many Canadian political and business quarters; but it is difficult to evade the conclusion that Mackenzie King and his advisers have paid special attention to the doctrines of the managerial revolutionists who, with James Burnham, hold that people are controllable robots. Ironically enough for many Canadians, the modern Canadian defense of democracy against such a threat may well begin with an examination of the nature of our military law and traditions, which, more than probably, will reveal that the army is a bulwark of democracy at home as well as on the field. From the standpoint of the war effort, however, and disregarding political subtleties, few will deny that outside interference with Canadian Army standards is a dangerous matter.

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