

National Defence

I am wondering about the use of the second word "less" in that line. A man could be convicted and sentenced to two years less one day. He could be sentenced to one day's imprisonment or one hour. Now, what is less than that? The point I am trying to make is this, and once more it is merely to ensure that these things shall be clear. Let us say a man receives one hour's imprisonment, and another man, for the same offence, might have his pay and allowances stopped for a month. Now, would anyone say that the second man's punishment, because he was not imprisoned, was less than the first man's? I merely thought, sir, that it might need some clarification. I know there are many punishments which may be meted out other than imprisonment, and I was wondering who would decide on what punishment would be less than two years or something of that sort.

Mr. Claxton: What is less than each superior punishment is set out in section 121, subsections 1 and 2. In subsection 1 there is an order of punishment running from paragraph (a), death, to paragraph (n), minor punishments. Each one of those, in order, is less than all those prior to it in the enumeration.

Mr. Smith (Calgary West): The word "less" is defined there.

Mr. Claxton: That is right.

Mr. Balcer: If this is the proper time, I should like to ask the minister whether his department is contemplating a change in the rum rationing to the navy, such as substituting beer for rum? Does the minister intend to apply rum rationing to the three services in a spirit of unification?

Mr. Claxton: This is a very complicated matter, and I do not want to say too much about it because I might get into some trouble. I will say that no immediate change is contemplated in the navy rum rationing. A man may take money, of course, in lieu of the rum ration.

Mr. Balcer: Has there been any change in substituting beer for rum in the navy?

Mr. Claxton: No.

Section agreed to.

Sections 89 to 165 inclusive agreed to.

On section 166—*Trial of issue of insanity.*

Mr. Smith (Calgary West): This section reads as follows:

Where at any time after a trial by court martial commences and before the finding of the court martial is made, it appears that there is sufficient reason to doubt whether the accused person is then, on account of insanity, capable of conducting his

[Mr. Smith (Calgary West).]

defence, an issue shall be tried and decided by that court martial as to whether the accused person is or is not then, on account of insanity, unfit to stand or continue his trial.

The section states that whenever at any time, after a trial commences this appears, then the issue shall be tried. Is that just the usual criminal procedure, making a distinction between insanity at the time of the trial, which will affect the continuation of the trial, and insanity at the time the offence is committed? I gather that somewhere, perhaps subsequently, that other branch of it is taken care of.

Mr. Claxton: Yes, the hon. member's assumption is quite right. This section 166, subsection 1, is practically identical with section 967 of the Criminal Code, and is intended to perform the same function. Section 167 deals with a case where the accused was insane when the offence was committed.

Mr. Smith (Calgary West): As to the question of whether or not he is sane enough to stand his trial at the moment, are there any special provisions for the examination of witnesses? In other words, all military units have medical officers or M.O.'s, as I think they are called. Is there anything in the act with respect to the evidence necessary to come to that conclusion of insanity at the time of trial?

Mr. Claxton: The provision is exactly the same as in the Criminal Code.

Mr. Smith (Calgary West): It is just the same?

Mr. Claxton: Yes. It has to be tried as an issue. The usual practice of course is to have specialists in that kind of medicine give evidence in addition to the ordinary medical officers.

Mr. Smith (Calgary West): That, of course, is so. But I was asking if there is any special provision, for this reason. With regard to a man on an insanity plea—that would be at the time the offence was committed—our courts have said that there is no occasion whatever, and I mean that it is not a "must", to call expert or medical evidence with respect to the question. The English judges have gone so far as to say that if a man is crazy, to use their expression, no one knows it as well as his friends and neighbours; and that they rely greatly on conduct as observed by his friends and neighbours. What I have in mind is this. The other day we were discussing something in the house at the suggestion of the hon. member for Lanark. We put into the act—and I have just forgotten the name of the act which was under discussion—a provision that certain things might