

National Defence

I should like to say that the hon. member for Simcoe North (Mr. Ferguson) seemed to answer fairly effectively the remarks of the hon. member from Calgary West (Mr. Smith); but I thought that the most surprising thing about the speech of the hon. member for Calgary West was the fact that he kept on talking about the supreme kind of injustice that was being done by courts martial, yet he succeeded in getting the accused persons off with a sentence which he thought was inadequate, which certainly reflects his skill as counsel.

Mr. Macdonnell (Greenwood): Could you have had a better witness?

Mr. Claxton: You are right, but not as to the severity or the unfairness of the courts. That is a question, of course, of great difficulty; and I am sure the hon. member for Nanaimo (Mr. Pearkes), because of his wide experience, will bring some part of that experience before the committee when it is set up, as we hope it will be. I may say that all the countries of which we have any knowledge have been equally concerned with us in this question as to how to administer service justice. Approaches have been similar, and I believe conclusions have been somewhat similar.

However, if there is any way in which we can do the job better than it has been done in the past, or better than contemplated in this bill, then let us bring it before the committee and have it threshed out there so that we can get the best kind of bill and the best kind of disciplinary code to be found anywhere.

With regard to some of the observations made by some hon. members, I would remind the house that the difficulty about this kind of legislation is that we must deal with things under conditions of peace but always anticipating a possible condition of war. Consequently while many of us would like to see many of the sections in the disciplinary code eliminated and left to the criminal law, we are still face to face with the possible necessity of having to administer service law during a time of emergency in a foreign country where there is no criminal law and no civil court. We have to have some kind of court in which to do it.

I think the most amazing feature of this debate is that during the course of the discussion not a genuine case of grievance has been brought forward. I think if that is true, having had some million and a quarter men and women serving throughout the most dreadful war in history, many of them brought before courts martial and many of them sentenced—and all of them having

members of parliament to represent them—it is amazing to find that we have had no cases of grievance brought forward here.

Mr. Pearkes: But surely when we are discussing the principle of the bill is not the time to bring forward cases of grievance.

Mr. Claxton: I agree. That would be completely in accordance with the rules. But the rules have not always been completely observed, and some hon. members have brought forward instances which they have suggested illustrated some defect or another. It is an excellent record, I suggest, and one greatly to the credit of this country and its soldier citizens, its armed forces, that so far in this discussion there has not been much by way of complaint.

So far hon. members have spoken in terms of co-operation. That, I can assure them, is most warmly welcomed. I would hasten to give the hon. member for Nanaimo all the assurance he asked. For instance, he referred to one section, namely section 4 of the old Militia Act as having been left out. The hon. member for Yale (Mr. Jones) referred to the same thing. As I said this afternoon, that section was left out because it was to be found, in different terms, in section 15 of the British North America Act; and it was thought desirable to leave the British North America Act standing as it was, in its own language, without repeating it in different terms in this bill.

Mr. Drew: Mr. Speaker, I do not wish to interrupt, but I would point out for the minister's consideration the fact that section 15 of the British North America Act refers only to naval and armed forces and that consideration should be given to the limiting effect of those words.

Mr. Claxton: I am sure they have no limiting effect. However, that is a question which can be placed before the committee for consideration.

The hon. member for Nanaimo said that not only should we see what is contained in the 251 sections of the bill, but we should also look into what has been left out of the 598 sections of the act which it replaces. I hold in my hand one of several volumes which contain all the old statutes. On the opposite page we find what has happened to them, and where they can be located in the bill. This book has been prepared by the judge advocate general's office, and it is available for the members of the committee. That information will be completely available. Then, on the other hand, we are reversing the process we have in the bill itself,