

North Atlantic Treaty

Mr. Fulton: I think it is article VIII.

Mr. Fournier (Hull): Does the hon. member wish that we carry each article of the schedule?

Mr. Fulton: No. What I wanted to ask is this. My understanding with regard to the effect of article VIII, in conjunction with article VII, the preceding one—although it arises mainly under article VIII—is that damages are recovered in this way. Let us take the case of a Canadian in France doing damage to civilian property. My understanding is that the French civilian who is injured cannot recover his damages from the government of Canada as part of what is called the knock for knock agreement even though the Canadian soldier may have been on duty, but that there is nothing to prevent the French civilian from recovering a civil judgment against the Canadian soldier. As I understand it, this would then leave him the right to take out execution against the property of the soldier in Canada. It is rather a tenuous right for a French civilian, and an expensive proceeding for him to have to look to the resources of the soldier in Canada in order to recover his judgment. As I read the article, there is given to the government of the country of whose forces the soldier is a member a discretion to pay a civilian claim if it wishes; but it does not have to. Normally it can be taken care of under this knock for knock agreement. Since that provision, it seems to me, would work hardship upon the civilian, I want to know whether there is any policy laid down with respect to this matter.

When I had to suffer the penance of serving in the adjutant general's branch of Canadian military headquarters in London for a short time, I remember our files were full of road accident cases where Canadian soldiers had done damage to the property of English civilians. There were cases of hardship at that time, and such cases were eventually taken care of in the United Kingdom by their over-all war damage policy with respect to their own civilians. If that had not been the case the consequent hardship would, I think, have created bad feeling between English civilians and Canadian soldiers. That sort of situation can grow into bad feeling. I am wondering whether there is any policy whatever here for the recognition of claims by the Canadian government and for payment by the Canadian government for damage done by Canadian soldiers in foreign countries to the property of civilians there, even though the Canadian government is relieved from liability under the article of this treaty.

[Mr. Stick.]

Mr. Campney: The knock for knock agreement applies only as between members of the various forces. In the case referred to by my friend earlier in his remarks, if I understood him correctly, that of the French civilian, under the provisions of the relevant article it is my understanding that the civilian would proceed in a French court against the French government; and if he recovered a judgment, the French government would then communicate—the man concerned being a Canadian soldier, of course—with the Canadian authorities and we would pay 75 per cent of the judgment and the French government would pay 25 per cent. That is the general procedure. In other words, the civilian proceeds against his own government, although another government is the ultimate one against whom the judgment is realized. There is a general arrangement among the nations that it will be on a 75-25 basis, for obvious reasons, so that both governments keep interested in the case.

Mr. Fulton: Is it not necessary that the French government should recover a judgment or that the Canadian soldier should be proceeded against to find out whether he was negligent?

Mr. Campney: I think paragraph (a) of section 5 of article VIII probably deals with that point. It reads as follows:

Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving state with respect to claims arising from the activities of its own armed forces.

Mr. Fulton: It is the government of the country visited—that is France in this case—that is responsible for 75 per cent of the damage?

Mr. Campney: Twenty-five per cent. If it were a Canadian soldier, the French government would be responsible ultimately for 25 per cent of the judgment.

Mr. Stick: In article VII, paragraph 9 (d) we find this:

to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving state.

Does that mean the same as what was referred to previously here this afternoon, that when you want a witness you apply to the receiving state and have the summons issued by the receiving state for the appearance of the witness?

Mr. Campney: Yes.

Mr. Stick: Paragraph 10 (b) of article VII reads:

outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving state and in liaison with