

10/Maybee GA/1 (DJAG) 31
10/Daughney RA/1
20/Opns/1/6
20/Mil Law/1

14 Apr 43

JAG-Legal

Corps, Regt, Unit.

1. The definition of "corps" in the Army Act is absurd for Canada, and, therefore, we have to adopt the normal meaning. From RML p 221 para 4 that appears to be: corps, regiment, unit.

2. If that is so, then AA 44 is open to providing for the punishment of forfeiture of seniority in corps, regiment or unit, whatever is the appropriate description of the body less than the Army as a whole to which the accused belongs. In awarding forfeiture of seniority in his "unit" in the Maybee case (10/Maybee GA/1) under AA 47, I understand that Maj-Gen Worthington understood corps to mean unit and did not intend to reduce Maybee in other than his unit, an infantry regiment. I hear that there have been sentences in Canada in peace time of forfeiture of seniority in "unit".

3. Similarly Daughney (10/Daughney RA/1) can be taken to have been given forfeiture of seniority only in his "regiment" (infantry unit). His sentence was awarded before the infantry were declared a corps. If changed to "corps" it may be increasing the sentence of the Court. I understood, however, from the JA at that Court that he advised the Court that "corps" meant "regiment" and so they used the latter word. But if the Court had said "corps", it then meant his unit or regiment. To revise now to "corps" and reduce him on the infantry corps list is effecting an increase in sentence. This observation applies to all infantry officers previously under sentence of forfeiture of seniority in "his corps", which I presume MG is now taking to have meant the infantry corps list since created.

4. I do not think it is sound to say that because of Sec 69 of the Militia Act we must for the Army Act adopt the definition in the former, viz: "In this Act unless the context otherwise requires, (a) "corps" means a military "body appearing in the list of establishments as a separate "unit." But some lawyers do think it sound, and they may so feel at NDHQ. I have a suspicion they do in view of the understanding of some PF officers.

5. Enough said to indicate that we need a Cdn definition in AA 190(18). I am passing a copy of this to ADAG(B) and submitting that he ask NDHQ to clarify.

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