

National Defence

by way of an alternative? I say, Mr. Speaker, that while it is not my business to suggest alternatives, I do say that when servicemen are charged with crimes under the Criminal Code, such as theft, and I was once engaged in defending a man charged with theft and another man charged with rape—the only crime other than murder and treason for which the Criminal Code prescribes hanging as one of the penalties—it does seem to me utterly wrong in principle that a man so charged should be tried by officers in the army. He should simply be turned over to the civil authorities, so that he will get what everyone else gets, a fair trial in the courts of our land.

I know in one case, in which the charge was not a severe one, the officer so charged had been reprimanded by the commanding officer of the district. I speak of the time when we had districts and not the commands into which our army is divided today. To try that man we had three men of the rank of brigadier, two of the rank of colonel and an alternate, I think that is the word, of the rank of colonel. They all came from outside the district. It was a trial ordered by the then minister of national defence. We had a judge advocate who came from Vancouver; a prosecutor who came from Toronto, and I may say I was there for eight days. I came from Calgary, and I received a delightful thank you at the end of the show. All that was accomplished was that this man received a mild reprimand. The expense which was entailed in gathering all those people together was so far out of line with anything that was accomplished, or that might be accomplished, that to me the thing was ridiculous. It was then that I finally made up my mind this outmoded method should be eliminated.

I do not intend to mention any names, but I will say that on this court we had elderly men, men who were anxious to go to England or to Europe. They were anxious to go to fight as a matter of fact for their country, but they were of an age where they were not first-line men at all. In discussions with them I learned that they knew their only opportunity of getting a command overseas—they were veterans of the first war as well—was by the favour, and I do not use that word in a harsh way at all, of those persons above them who would have the right to say whether or not they were entitled to preferment. I know it is a difficult thing to make any change in something which has been a custom for so long, but I do think, Mr. Speaker, that the minister might well review this whole picture to see if we cannot find a more sensible means of meting out justice to servicemen who are accused of crime. I

am not talking about taking a toothbrush from another fellow's kit, or anything of that sort. I was going to say that is a thing, particularly where many men are grouped together in quarters, which always happens. I am talking about these more serious offences. I did defend a man in a court martial in the air force who was charged with rape. At the end of the road he was found guilty, and he was dishonourably discharged or "cashiered" as they put it. Remember, he was my client; but I say that had he been in a civil court he would have been sent to jail for five or ten years, and that is where he deserved to be. In that way, justice was cheated because of the method which was used in connection with the trial.

I said, Mr. Speaker, that I would take only a few minutes, and I shall keep my word. I am not blaming anybody for anything, but I am trying to make a suggestion which will eliminate any thought on behalf of an accused person or those who act for him that he is being judged by persons who may be seeking favours from other persons above them in rank and who put them there in that particular spot. I therefore ask for the careful consideration by the minister of the suggestions that I have made.

Mr. J. H. Ferguson (Simcoe North): It is most interesting, Mr. Speaker, to listen to some of those who have spoken this evening. As a veteran of the first war, having served as a private and committed almost all the minor offences a private soldier could commit, and enjoyed them all and having served as an officer and continued to commit many minor offences for which I was brought to task, I listened with interest to that eminent lawyer, the hon. member for Calgary West (Mr. Smith), making suggestions with regard to courts martial. The matter could be studied thoroughly, because there is no doubt about the red tape, the squandering of the taxpayers' money and the fact that officers were appointed to courts martial who had very little legal experience.

But to suggest that all enlisted men should take the time to study, not the king's rules and regulations but the House of Commons of Canada rules and regulations, when the war is almost over before we ever start fighting, and that you are going to have these rules and regulations so simplified, as suggested by some of the speakers here this evening, that every private soldier is going to take time off and neglect his rifle or his anti-aircraft gun or his military training in order to become a first-class barrack-room lawyer, is absolutely ridiculous. You will not find many of the colonels taking much time on the rules and regulations. For the