

Instead of submitting themselves to this Imperial jurisdiction the Canadians might have obtained warrants addressed to their Generals overseas, emanating from the Governor-in-Council under sec. 98 of the Militia Act, to convene courts martial and in addition power to approve, confirm, mitigate, or remit, any sentence of any such court.

Had this been done no sentence of any general court martial could have been carried into effect until approved by the Governor-in-Council (Militia Act, sec. 104), and all courts martial proceedings would have been forwarded to the Judge Advocate General at Ottawa for final custody, instead of to the Judge Advocate General at the War Office. The Army Council would have had no jurisdiction over them.

Had the Canadians desired to set up their own jurisdiction and to control their own disciplinary administration, much confusion might have resulted, as Canadian military law was applicable to Canadian soldiers only, and it frequently happened that both Canadians and Imperials were tried together, and sometimes with soldiers of the other overseas Dominions.

Care was taken by the Imperial authorities that so far as the exigencies of the service permitted, Canadians were tried by their own officers, and Canadian officers of high rank were constituted by the Army Council "competent military authority" to suspend, remit and commute sentences imposed.

One of the first doubts which arose in the mind of the War Office was as to the status of the Canadian officer. Was he qualified to sit upon a Court Martial convened to try officers or soldiers who were not Canadians? Had he authority by reason of his rank and seniority over Imperial officers when serving with them in the field?

In the London Gazette of 1st May, 1915, appeared the following:

"With reference to A.O. 35 of 1915, officers of overseas contingents take rank as though they hold temporary commissions in the army with effect from the 5th August, 1914, or date of subsequent appointment, and take rank with officers of the Regular Army from such date."