

It was therefore essential, in order to maintain Canadian autonomy, when our troops went overseas, to take the position that they were Canadian Militia and not a part of the regular forces bound to serve in any part of the world, wherever sent by Imperial authority.

It was difficult to convince the War Office that the Militia order which has been referred to, and which was never revoked, was *ultra vires* of the Headquarters which published it in August, 1914, and it took several years to do it.

Sec. 74 of the Militia Act is in part as follows:

"The Army Act for the time being in force in the United Kingdom, the King's Regulations, and all other laws applicable to His Majesty's troops in Canada and not inconsistent with this Act or the regulations made thereunder shall have force and effect as if they had been enacted by the Parliament of Canada for the government of the Militia."

By reason of this provision of the Militia Act, aided by sec. 177 of the Army Act, which enabled Canadians to take their own law overseas, it was open to them to administer discipline and to control the machinery by which it was enforced, or to submit to the jurisdiction of the disciplinary powers exercised by the Army Council, as will be presently explained. Wisely the latter course was adopted, and the Canadians have never had cause to regret the confidence fully and implicitly placed in the Imperial authorities in regard to the enforcement of discipline.

The situation may be shortly explained as follows:

By sec. 102 of the Army Act provision is made for the issue of warrants by His Majesty to His General Officers giving authority to convene general courts martial, and district courts martial.

Such warrants being issued under the Army Act, the proceedings taken under them are subject to the regulations and rules of procedure therein provided, which make the Army Council and the Judge Advocate General (Imperial) the final authorities to pass upon the validity of such proceedings and to exercise the powers of suspension, remission, or commutation of sentences legally imposed, and to retain custody of all proceedings and documents after trial.