

North Atlantic Treaty

Mr. Campney: That is my information.

Mr. Stick: He will be tried by a civil court?

Mr. Campney: It will be possible when the modifications are put into effect.

Mr. Herridge: I am not a lawyer, but I am not at all satisfied with the explanation of the parliamentary assistant. I cannot express my objections in the language of the hon. member for Kamloops, but I certainly support his argument. I smell a certain amount of injustice in this section of the bill. As a matter of fact I had some considerable army experience in the first world war and I know what can happen sometimes when things are supposed to be right and then turn out to be wrong. I was carted five miles to a court-martial once and then they found they had the wrong man. You can understand my feelings when a question like this is involved. I do not see why parliament should pass legislation permitting any injustice to any person on Canadian soil, whether or not he is a member of other forces. This parliament is in Canada, and we in Canada believe in the rights of the individual and in giving justice to all on Canadian soil. Therefore because of our approach to the situation and the argument put forward by the hon. member for Kamloops I wish to move, by way of amendment to clause 10:

That the following words be inserted after the word "state" in line 21, "unless the contrary be affirmatively proved."

Mr. Fulton: In view of the importance attached to this matter, I wonder whether we could suggest to the parliamentary assistant that possibly the clause and the amendment should stand pending the return of the minister, or does he wish to dispose of it at the moment?

Mr. Campney: Personally I do not think any good would be gained by having the clause stand. I would rather request the hon. member to withdraw his amendment for the following reason. As I understand it, it is inherent in the whole agreement of the North Atlantic treaty countries that one nation will not interfere with the service forces of another visiting nation. I can understand the thoughts that actuated my hon. friend, but when twelve nations have agreed upon a certain line of conduct as being in the best interests of all those nations, and this after many months of difficult negotiation, if we now start amending this statute so as to interfere with that agreement we would, in effect, be reneging on the treaty. The inter-relationship of the courts as among the associated nations, whether civil or military, has proven to be a very complicated subject

[Mr. Stick.]

and the cause of lengthy discussions. Finally, all the signatories to this agreement have decided on the various types of courts and jurisdictions, so I do not think I could accept the amendment. I believe that is a reasonable stand to take.

In addition, I do not see that any good purpose would be served, under these circumstances, in having the matter stand, much as I should like to accommodate my hon. friend.

Mr. Murray (Cariboo): The amendment suggests that we in Canada have the final say; that we are above all other nations. We arrogate unto ourselves the position of being supreme. What we decide is right. Of course I am not speaking as a lawyer, but other nations have their laws and they may think very highly of their codes. To support that amendment would make us appear rather ridiculous.

Mr. Fulton: I should like to deal with the point made by the parliamentary assistant, and which has been followed up by the member for Cariboo. I suggest earnestly that they have not appreciated the effect of the amendment. There is no suggestion that we should interfere in the proceedings or in the sentence of the service court of an associated power, or that we should say how they should conduct their affairs or what they shall do with their own personnel as the result of the proceedings of their court. The section, as it is presently drawn, makes it possible for results to follow in Canada, with respect to people who are in Canada, which may be deemed to be an injustice.

So long as a person is under the control of his own service court, the amendment would not have any effect on what happened. It is only when that person happens to come to Canada and not be in the control of his own forces or when the verdict of the foreign service court has an effect with respect to rights or property in Canada, that the amendment concerns itself and we concern ourselves on behalf of the rights and interests in Canada. In the amendment we are not seeking to say that the proceedings and verdicts of the foreign service court are, *ipso facto*, bad. We are not adopting any sort of arrogant attitude such as the hon. member for Cariboo has suggested; that is not it at all. We are recognizing and observing the presumption that the proceedings and verdict of the foreign service court are good, but if it is affirmatively proven in the individual case that they were not good, that there was some difficulty in the proceedings according to their own laws, surely that principle should be