

12 Field Security Section, a soldier of the Canadian Army Overseas, he during part of the period aforesaid, having been Officer Commanding of the said soldier and at all times during the said period having been the superior officer of the said soldier, thereby causing discord between said Anne Belanger and said soldier, her husband." Now that is the first charge, under Sec 16, and it is described as scandalous conduct, and there is one punishment only and that is to be cashiered. The question then is whether these particulars do amount to scandalous conduct, whether this is such an offence. Is it so serious that the Court can feel that it will have no hesitation in cashiering this man. Section 17 says that "Every Person subject to military law who commits any of the following offences; that is to say: Being charged with or concerned in the care of distribution of any public, regimental money or garrison property, steals, fraudulently misapplies, or embezzles the same etc shall, on conviction by court martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned." The Penalty under this section is not as heavy as that under Sec 16 and yet the acts described in Sec 17 surely appear more serious than those charged against Lt Haufek today.

JUDGE ADVOCATE:

" Even if you are entitled to make an objection, you must make it in accordance with the rules. You must endeavour to prove that the charge in question does not disclose an offence, under the Army Act."

DEFENCE:

I am working up to that, Sir. This offence is punishable with cashiering only, and in other sections there are offences a great deal more serious than that alleged in the particulars and yet in those cases the Court is allowed to make up its mind to use a much lesser punishment. Is it not reasonable to assume that Section 16 of the Army Act was intended for much more serious offences than those?

JUDGE ADVOCATE:

" If an officer had given a bad cheque for £1, would you consider that a serious offence?"

DEFENCE:

I don't know, sir.

JUDGE ADVOCATE:

" There are facts alleged that are alleged to be scandalous conduct. That is a question of fact. The Court may decide that what has been done is not scandalous conduct, after it has heard the evidence."

DEFENCE:

You mean that conduct that is described in the charge sheet as scandalous conduct?

JUDGE ADVOCATE:

" That is what is alleged to be the offence."

DEFENCE:

If, sir, you claim that this consorting, whatever that may be, may be shown to be better or worse than that which is shown in the

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