

pounds. The British rifle and ammunition are, however, too heavy in proportion to the caliber, and result is that although the British soldier uses a bullet of less caliber than the Austrian, the French or the German soldier, he carries a greater proportionate weight in rifle and ammunition than any soldier except Austrian. It may be added that Belgium has adopted a caliber of 0.301 inch, Roumania, one of 0.258 inch, and Switzerland, one of 0.295 inch. Belgium, Spain and Turkey use the Mauser principle; Roumania uses the Mannlicher, and Switzerland uses the Schmidt.

### Regimental Colours.

The history of the colours of a regiment is of great interest. During the reign of Queen Elizabeth a company of infantry varied in strength from 150 to 300 men, and each company had a colour. This colour was posted in the centre of the company and was guarded by halberdiers. Even after it had become the custom to unite a number of companies into one regiment each company continued to bear its own colour. The great Swedish commander, Gustavus II., reduced the strength of regiments from about 3,000 to 1,000 men in the early part of the 17th century and England soon adopted the formations, etc., suggested by his experience. A regiment was then formed three divisions, a central division of pikemen, flanked on either side by a division of musketeers. This arrangement soon led to the colours carried by a regiment being reduced by three in number. Finally, in the reign of Queen Anne, the number of colours was further reduced from three to two, which is the number at present carried by regiments of infantry. The ceremony of trooping the colours is of ancient date and is of two-fold object, that of familiarizing the troops with it and of paying respect to it as an emblem of the Sovereign they have sworn to protect. The colours of a regiment have on many an occasion served as a rallying point for troops thrown into confusion, and the stubbornness with which they are defended amply shows how sacred they are to every officer and man in a regiment, whose brave deeds are commemorated by the Sovereign's permission to have emblazoned on them the actions in which the corps has especially distinguished itself.

### Courts Martial.

We have been requested by the writer to reproduce the following interesting letter on the subject of courts martial from the Winnipeg Free Press.

Sir—I noticed in the columns of your paper last week that the legal fraternity of Quebec were greatly agitated over the question as to "whether a soldier being tried by court martial has a right to employ a lawyer to defend

him?" And the general who has been appealed to is not going to settle this momentous question until his return from England next month, I venture to ask if you will kindly find space to publish the following for the information of all who are interested in the matter:

The employment of professional advisers for the defence or for the prosecution appears to have been for the first time formally recognized in the Circular of June, 1865. At the trials connected with the Fenland conspiracy at Dublin in June, 1866, the prisoner's counsel having withdrawn from the court, the following notification was entered on the proceedings and read by the president: "The court not wishing the prisoner to be taken at a disadvantage do now adjourn until 10 30 to-morrow to enable him to have the assistance of some counsel or other, but the trial will then be proceeded with whether counsel appear or not."

Legal assistance is now also provided for the prosecutor, if thought necessary when counsel are retained by prisoners; and both prosecutor and prisoner have equal opportunities for consulting them privately in open court, and for availing themselves of their assistance in preparing questions for witnesses, writing them out, taking notes and shaping the several addresses, or occasional observations submitted to the court. But the recognition of their presence has not been accompanied by any relaxation of the well established rule of courts martial as to the silence of professional advisers, and their taking no part in the proceedings. On the contrary, it has been felt most necessary that courts martial should in these circumstances be more than ever on their guard to resist any attempt to address them on the part of any but the parties to the trial. The Queen's regulations distinctly state that "although a prisoner may have a professional adviser near him during the trial to advise him on all points and to suggest in writing the questions to be put to witness, such adviser is not to be permitted to address the court or to examine witnesses orally."

It is in the exercise of a similar power—that of regulating their own proceedings—that barristers and attorneys of the superior courts at Westminster are excluded from practice before courts martial. "If," said the late Sir Willoughby Gordon, "this established principle and usage of courts martial be departed from in favor of an officer, it must be equally extended to the non-commissioned officers and privates throughout every part of Her Majesty's possessions abroad and at home." "This," wrote the author of the essay on Military Law, (himself the judge advocate of North Britain); "is a most wise and important regulation; nor can anything tend more to secure the equity and wisdom of their decisions; for lawyers being in general as utterly ignorant of military law as

the members of courts martial are of civil jurisprudence and the forms of ordinary courts, so nothing could result from the collision of such jarring and contradictory judgements but inexorable embarrassment, or rash, ill founded and illegal decisions."

Neither is this rule without analogy in the common law, where magistrates have excluded practitioners from their courts, and for the same reasons that have induced tribunals to do so. The question raised in *Collier v. Hicks* was whether any one was entitled as a matter of right to attend on the part of a prisoner and take part in the proceedings as an advocate by expounding the law and examining witnesses. "This was," said Lord Tenterden, "undoubtedly an open court, and the public had a right to be present as in other courts; but whether any person, and who, shall be allowed to take part in the proceedings must depend on the discretion of the magistrates, who like other judges, must have the power to regulate the proceedings of their own courts. Any person whether he be a professional man or not, may attend as a friend, may take notes, may quietly make suggestions and give advice; but no one can demand to take part in the proceedings as an advocate contrary to the regulations of the courts. It may be said that a denial of this right will be a hardship on the parties. I cannot accede to that opinion; on the contrary I think it may be for the benefit of the parties that such a right should not be admitted. If the former may as a matter of right demand that a professional advocates shall be heard for him, the accused must have the same right. The consequence would be that the parties would in most cases be put to a heavy and grievous expense." A military court has no power of awarding damages or legal costs, and, therefore, no encouragement ought to be given to any person to incur them. Moreover, if any court ought to be entirely self-dependent and able to exercise its functions on the spur of the moment, without instruction or advice *abultra*, it should surely be that court which, from the necessities of the case, may be summoned at any moment, in the field, or in quarters, in any part of the world, and to adjudicate upon any offence—civil, criminal or military—under ordinary or martial law. Once train the officers of the army to the belief that they are incompetent to discharge court martial duties, and the courts themselves ought then to be suppressed altogether and their jurisdiction handed over to camp or cantonment magistrates.

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