

*National Defence Act Amendment*

● (4:30 p.m.)

the Canadian Forces. This is in any case a change in terminology, but it may also be a change of a much more substantial kind.

We suggest that the minister should consider the feelings of those who do not wish to continue to serve as members of a Canadian armed force. The contract into which they entered has been terminated by the abolition of the three services: There is no contract in existence. I do not object to those now in the services volunteering to enter the new force, but I plead on behalf of those who feel they will no longer be able to serve Canada as army, naval or air force men.

I should like to place on record some of the questions which were asked on this subject by a member of the defence committee and the replies given to him, because I am sure this evidence will strengthen the point I am making. The judge advocate general is the witness being questioned, and I am quoting from pages 2082 and 2083 of Minutes of Proceedings and Evidence, No. 32.

Mr. MacInnis (Cape Breton South): If I, as a serviceman in any one of the three services decided, when this act was about to come into force, that I would dispute the legality of it, under what law could I be proven guilty?

Mr. Lawson: Well, I suppose you would desert and you would be tried as a deserter.

Mr. MacInnis (Cape Breton South): A deserter from what?

Mr. Lawson: From the Canadian forces.

Mr. MacInnis (Cape Breton South): On what basis would I be considered a deserter, if I had signed to serve in, say, the army?

Mr. Lawson: Because parliament has said—

Mr. MacInnis (Cape Breton South): The army no longer exists, according to the law. How can I desert something that has been wiped out?

Mr. Lawson: But parliament has said that you are now a member of the new force; so as a member of the new force you are a deserter.

Mr. MacInnis (Cape Breton South): But I have not said that, and my attestation papers do not show it. How can the law actually pin me down as having deserted something that parliament has wiped out?

Mr. Lawson: But parliament has provided that you are to be a member of the new force; and therefore—

Mr. MacInnis (Cape Breton South): Arbitrarily?

Mr. Lawson: You continue serving the term of service that you have agreed to serve.

I wish to point out that the term these men agreed to serve was not a term in the Canadian Forces but in the army, the navy or the air force. Yet by a stroke of the pen clause 5 (1) declares:

The services known before the coming into force of this part as the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force, are embodied in the Canadian Forces.

The three services are wiped out. The contracts made by the members of the present forces were contracts to join one particular arm of the services. Therefore I say there is a cancellation of those contracts, and those who do not want to stay in the forces should be given some consideration, whether by being pensioned off or by the provision of some settlement, plus honourable discharge.

The question went on further:

With the specific force, the army? I have signed my attestation papers. I have joined the army. The army is wiped out under the bill. What legal method can the government adopt to prosecute me for deserting something that they have done away with?

The answer was:

The law is there. Parliament has enacted the law. Parliament has said that this is the law and you are bound by that law.

Then there was another question:

Yes; but my question is: how are they going to apply that law? This is the essence of the whole question. How are they going to apply the law to something that is no longer in existence?

The answer was:

Simply by the fact that if you leave you are a deserter. You can be charged with desertion and tried for desertion. You can raise the issue at your trial.

Another question was asked:

How could he be charged with desertion of something that he has not joined?

The answer was:

Because parliament has said he is in it.

I am not too sure parliament can say he is in it. This is a case that should be tried by the courts of our land, to see if we have the power to pass this particular clause of the bill breaking a contract unilaterally. In view of what has transpired previously, all this is very odd to me.

We were talking about regulations that were going to be introduced after the bill had passed. The judge advocate general told the committee he had formulated some regulations, or suggested some regulations to the minister. I would like to read a portion of them because I do not believe they coincide with his remarks about joining the new service. These two paragraphs of the suggested regulations are very interesting:

No officer or man who immediately prior to the coming into force of Part I of the Canadian Forces Reorganization Act was enrolled in, or had been transferred to, the Royal Canadian Navy shall