

# MILITARY LAW

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For years I have tried to impress on the officers of the Canadian Army the great importance of making themselves fully acquainted with Military Law and the Queen's Regulations. Knowledge of Military Law among officers, generally, declined sadly during the Second World War, many regarding it as a boring subject which had best be left to the lawyers.

One of the staff officers in my branch, mainly doing legal work, was in the Supreme Court library a short while ago and found a book, published in 1841 by Alexander Macomb, Major General, Army of the United States, entitled "The Practice of Courts Martial".

I should like to commend to the attention of every officer in the Canadian Army the following extracts from the Introduction to that book:

"The discipline and reputation of the Army are deeply involved in the manner in which Military Courts are conducted and justice administered. The duties, therefore, that devolve on officers who may be appointed to sit as members of courts martial, are of the most grave and important character: that these duties may be discharged with justice and propriety, it is incumbent on all

officers to apply themselves diligently to the acquirement of a competent knowledge of military law; to make themselves perfectly acquainted with the Acts of Congress relating to the Army and Militia, with the regulations and General Orders, and with the practice of Military Courts.

"Military jurisprudence has, of late years, undergone considerable changes, and been much improved; consequently the practice of courts martial has experienced modifications to correspond with such improvement. . .

"It is a well established fact, that the infrequency of courts martial is in proportion to the intelligence and well-regulated zeal of officers of the Army. It is as much a duty to prevent, as to punish crime. An officer may do much to this effect, by timely interference. A judicious intercourse with his men, gives him that knowledge of their characters, which enables him to admonish with equal benefit to them and advantage to the Service. They should feel assurance, that, while their rights are guarded, their offences will not go unpunished."

I can say, as Major General Macomb said one hundred and thirteen years ago, that our military jurisprudence has lately been im-

## PROFESSIONAL ATTAINMENT

AN EXTRACT FROM AN ADDRESS BY SIR WENTON CHURCHILL ON THE U.S. OFFICER CORPS DURING A VISIT TO THE UNITED STATES IN 1946.

We now have to choose very carefully the line of division between the officers and other ranks upon which authority should stand. There is only one line in my view, and that is professional attainment. The men have a right to feel that their officers know far better than they do how to bring them safely and victoriously through terrible, difficult decisions which rise in war. As far as Great Britain is concerned, I shall always urge that the tendency in the future should be to prolong the courses of instruction at the colleges rather than

to abridge them; and to equip our young officers with that special technical professional knowledge which soldiers have a right to expect from those who can give them orders if necessary to go to their deaths. It is quite clear that class or wealth or favour will not be allowed in the modern world to afford dividing lines.

Professional attainment, based upon prolonged study, and collective study at the colleges, rank by rank, and age by age—these are the title deeds of the commanders of future armies, and the secret of future victories.

### Military Law

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proved. The new National Defence Act, with its overhauled Disciplinary Code, is the fruit of years of work by experienced officers of all three Armed Forces, and by officers with long legal training, as well as military knowledge. This code is derived from many sources—the old Naval Discipline Act; the British Army, and Air Force Acts, that we used for generations; and the Criminal Code of Canada, to name a few. And besides all these valuable sources it contains some completely new material and

ideas. I believe it is as modern and perfect as any similar piece of legislation anywhere, and probably better than most.

Having provided the Army with this legal instrument, the Government, Parliament, and people of Canada are entitled to expect that the officers who have to administer it are familiar with it. And as far as the Queen's Regulations are concerned, an officer who is ignorant of them can hardly be said to be fit to hold Her Majesty's Commission.