

THE ECONOMIST

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COURT MARTIAL REFORM

In the Commons on Tuesday, Mr. Shinwell announced certain reforms in the organization of the Judge-Advocate-General's Department affecting both the Army and the Air Force. In form, the apparent scope of the reforms is small. In future, the Judge-Advocate-General will be answerable to the Lord Chancellor and not to the Secretaries for War and for Air. Instead, the Service Departments will set up their own internal organizations to provide advice before prosecution and to deal with the actual prosecutions at the court-martial trial itself. The Judge-Advocate-General's Department will be concerned only with the court itself, and the subsequent review of the proceedings. None the less, these changes are of considerable importance.

A Service trial by court martial resembles most closely the proceedings in a magistrate's court. The prosecuting and defending officers are serving officers probably without legal training. The court itself is also made up of serving officers, who may have a good deal of experience of Service life and procedure but who, again, are probably without formal legal training. The Judge-Advocate-General's Department has, hitherto, played a double role. It has had the duty of advising the prosecution on the preparation and conduct of the case, and also of advising the court itself on any legal points that arise during the trial, as, for example, the admissibility of evidence. It is possible for an individual successfully to divide his mind between these two functions, but if he fails to do so, injustice may easily arise. If a similar procedure

existed in civil courts, it would be as though the police superintendent supervising the prosecution in the court had also the duty of acting as magistrates' clerk in advising the bench on any points of law.

The War Office has taken its time in effecting this reform. It was first proposed by a Committee in 1938, and re-affirmed by another in June, 1947. It comes into effect on October 1, 1948.