

*Militia Act*

by the bill before the house, there will be no limit placed by parliament on the size of the active force, but rather the size of that force is left to be determined by the governor in council. This change, were it enacted by this house, would be in breach of a convention of our constitution which has existed since the Bill of Rights in 1689; and before this debate concludes and we give second reading to the bill, we must have an assurance by the minister that this constitutional breach will be mended as soon as we get into committee. Otherwise I for one will be forced to oppose the passage of the bill.

I want to enlarge a bit upon the constitutional question here involved. By the Bill of Rights in 1689, following the revolution and bloodshed of 1688, it was determined once and for all that the army should be the army of parliament and not the army of the crown. This is the principle which is being breached by this proposed amendment. Since the war, we have had an extraordinary and alarming succession of breaches of constitutional duty on the part of this government. In the first session of the 20th parliament we started with the emergency powers act, when a bill much wider than was really needed by the government was brought in. Thereby the principle of the supremacy of parliament, which had been established since the days of the civil war in 1640, was broken. Then last February the liberty of the subject was invaded in the conduct of the spy inquiry. The order in council which invaded the freedom of the individual was based upon the emergency powers act, which I have already said was too wide; and magna carta, which has been in existence since 1215, was given a great blow. Now, by this proposal the Bill of Rights of 1689 is to be abrogated. I might point out to the house that in all three of these cases these conventions of our constitution were established after bloodshed between rival parties, when it was decided that, for the preservation of our freedom and the avoidance of civil strife, it was necessary that these three principles, which have been broken by this government, should be written into our constitution for all time.

In Great Britain, as hon. members I am sure know, that practice and that constitutional principle were applied by the device of passing each year the Army Annual Act. The declaration of the Bill of Rights, namely that the raising or keeping of a standing army within the kingdom in time of peace, unless it be with the consent of parliament, is against the law, was repeated annually in the Mutiny Act, and then later in the Army Annual Act. The British House of Commons has never

[Mr. Merritt.]

been willing to leave to the crown the size of the standing army; and the raising, control and payment of the army have always been expressly sanctioned by parliament, and only for a period of twelve months at a time. In Canada, since we never had any great force, that was not considered necessary, but the constitutional principle was preserved by writing into section 22 of the Militia Act an upper limit of 10,000 which would ensure that the size of the army was always within the control of parliament.

In Canada we do not have a written constitution, as they have in the United States. We have kept it flexible and unwritten so that it could grow with the times, and we have always felt that we had a great political instrument at our service in this unwritten constitution.

It was kept unwritten and flexible so that it could evolve and grow, not so that it could be breached by any government in power at any one time. Although the opposition can point out these breaches, and will continue to do so as we have throughout this parliament, I say to the house that there is a prime responsibility upon any minister introducing a measure to ensure that his bill is within the four corners of our constitution. If that is not a responsibility of the ministry, then I am sure our constitution and our system of government will not be able to withstand attacks from within.

I am perfectly certain that in this instance there has been an oversight. I must say, however, that oversights of this importance should not be made. I assure the minister that if he will consent to the placing in this new section of an upper limit upon the size of the force, I for one will be perfectly satisfied with his undertaking so to do when we get into committee. I wish to assure him that neither I nor, I am sure, anyone on this side of the house, wants to be ungenerous in the fixing of that limit. We want to be certain that we have adequate armed forces. The figure that he is likely to name is not likely to cause any alarm on our part. But hon. members on this side of the house would be derelict in their duty if they did not call attention to this most important point, and require, before we are asked to vote, that a change be made. If we have that assurance we can go on in committee to the other important points of policy and command which I have outlined to the house. Therefore I shall say no more at the moment.

Mr. M. J. COLDWELL (Rosetown-Biggart): Mr. Speaker, I wish to say at once that I agree with the hon. member for Vancouver-