

peace and war, at home and abroad. Its object is to maintain discipline as well as to deal with matters of administration in the army. As distinguished from ordinary civil law, military law is administered by military tribunals and is chiefly concerned with the trial and punishment of offences committed against its enactments, but on becoming subject to military law the soldier does not cease to be subject to the ordinary criminal and civil law. Now, I mention this definition particularly to give emphasis to the fact that under the British system of law, or systems of law in force in countries which derive their origins from Britain and follow their parliamentary system, the civil law is always supreme to the military law. Civil law is so supreme that under our system it is possible for a man to be convicted or acquitted of an offence by a military tribunal and then subsequently to be put in jeopardy again before a civil court. The only qualification that must be made is that the civil court will, in awarding a sentence, take into account the sentence a man already has received and served under the military law. That is fundamental to our system, the civil law is supreme.

I think it is important to make it clear that, "Military law is to be distinguished from martial law which is the condition obtaining when the application of the ordinary rules of law by the ordinary courts is suspended and such law as then remains is enforced by military tribunals. Martial law could only be lawfully proclaimed and enforced in Canada under the authority of an Act of parliament such as the War Measures Act," or conceivably by some prerogative right, but it is a very extreme measure to deal with highly unusual situations. I do not think martial law has ever been proclaimed in Canada since the very early days and long before confederation.

Now, there is another provision that I should mention, and that is military aid to the civil authorities, which is provided for both in the existing Militia Act and the Criminal Code and this bill, for the purpose of suppressing riots. That is quite a different matter from martial law and that again has very special rules applicable to it.

Now, the criminal code has a reference to military law in section 2, subsection 21. It says:

2(21) 'Military law' includes the Militia Act and any orders, rules and regulations made thereunder, the King's regulations and Orders for the Army, any Act of the United Kingdom or other law applying to His Majesty's troops in Canada and all other orders, rules and regulations of whatsoever nature or kind to which His Majesty's troops in Canada are subject.

Now, of course, it is of the very essence of our system of government that all authority for government action must be found in an Act of parliament. This is the proposed Act of parliament. Under this bill provision would be made for the drafting of regulations which, when adopted by the Governor in Council, would gradually replace the existing King's regulations and orders for the Canadian army, the Royal Canadian Navy, and the Royal Canadian Air Force. They would be passed under virtue of the powers provided for in this bill.

Now, since the bill was adopted by the Senate we have had a number of suggestions made by our Defence Department and also by the Department of Justice for minor changes in the bill, and I think it would be very convenient for the members to have a schedule distributed indicating in detail every difference between the bill as passed by the Senate and the bill before you, so that you can see what the Senate agreed to and what you are now asked to agree to. The officers here will make copies of that schedule available to you.

Now, to assist in your consideration of the bill there is no need for me to say that I will be always at the service of the committee as will also be the