

The constitution is strange because that vital written part of it which provides for the respective powers of the two sets of governments, the British North America Act contains within itself no provision for amendment. It is 77 years old and has been amended from time to time by the British parliament. It can be so amended again but in the intervening years a fixed rule has become established that the British parliament will amend it only at the request of Canada. Over the question of what authority in Canada is competent to make the request and whether the British parliament is bound to act on a request from the dominion should the provinces or some of them object constitutional authorities have been arguing for years.

The constitution is nebulous because when it was framed the activities of the state were limited and because the courts in interpreting the act and applying its terms to new fields of governmental activity have added to the statute a body of jurisprudence which is neither clear nor consistent.

At some stage in the conference the question of whether Canada should start over again and frame a new constitutional statute suitable to modern conditions or go on patching up the British North America Act with amendments and judicial interpretations is likely to arise. In many respects the constitution has been suspended for the duration of the war. This was not illegal as it provides for the exercise of emergency powers by the federal government but it has reduced the importance of provincial governments.