

Motion Respecting House Vote

right in allowing the motion to be put and to be debated in the house. But I ask that we face this fact, that in debating this motion, and certainly if the house passes it, we will be doing something very serious; we will be, in effect, amending the constitution of Canada.

I know that for the most part people think the constitution of Canada is the British North America Act, and that is all there is to it. When there is talk about amending the constitution most people think that means amending, revising or rewriting the British North America Act. But some people know there is more to the constitution of Canada than the British North America Act and I suggest that so far as the constitution of this parliament is concerned, so far as the operation of this institution goes, we are practically without a written constitution. We make our own constitution by the things that we do over the years.

I ask hon. members to read the British North America Act again, to read it carefully and closely and try to count the number of things you can find in it that control this parliament. There is very, very little. Oh, there is a provision which says we cannot last for more than five years without an election; but we amended that in world war I. There is a provision that says we must have a redistribution every ten years, we amended that provision during world war II. There was a provision initially about the number of members for each province, about the basis of distribution, we have amended that several times. And so it goes, Mr. Speaker.

There are two or three things we have not altered. For example, there is a clear provision that we must have a Speaker, and there are some pretty strong implications about his authority. There is a clear statement that decisions made in this house shall be made on the basis of a majority vote. But there is nothing in that constitution, in the British North America Act, about our rules. There is nothing that says we must give bills first, second and third readings. There is nothing that says anything about the length of time to be spent in debate or about the kind of debates we are to have. There is a reference to money matters, that anything involving the expenditure of money must be preceded by a resolution from the Governor General—

Mr. Nielsen: Or taxation.

Mr. Knowles: —but so far as the general operation of the institution of parliament is [Mr. Knowles.]

concerned, we are almost like the parliament at Westminster—we make our own rules; we run our own show. If I may digress for a moment, Mr. Speaker, practically the only difference between this country and Britain, so far as parliament is concerned, is that we have a British North America Act which draws the line between the federal authority and the provincial authority. In Britain parliament is supreme and everyone knows it. Parliament is supreme in this country, too, but we do have a constitution which says that certain things are within federal jurisdiction and others are within provincial jurisdiction. Otherwise we make our rules, our traditions, and lay down the precedents for the kind of institution this is to be.

I submit that in this very debate we are adding to the precedents that are used for determining in the future what parliament can do. Why is it, for example, that when people are trying to answer the question as to whether the vote of February 19 was a motion of confidence, reference has to be made to Erskine May, to Beauchesne, to Bourinot, to Jennings, to Dicey, to Eugene Forsey, to the Canada Year Book, and so on? It is because there is no written constitution that gives the answers.

• (8:10 p.m.)

There is no document anywhere which says officially: This is a vote of confidence; this is not. We rely on precedent, we rely on tradition, and we rely on the Speaker's rulings. Indeed, if there is any element of this institution which is constitutional, it is the function that Your Honour exercises to see to it that the traditions which should be respected are continued, and that innovations are allowed only if they make common sense and meet the general will of the people. But I emphasize the fact that this is a pragmatic institution. We do not have a written constitution which says how we shall operate. Everyone knows that in the United States for a bill to become law it has to be passed by both houses and receive the president's signature. Everyone knows that if he refuses his signature, the bill is dead, unless it then gets a two thirds vote by both houses. Everyone knows that down there if a bill is defeated in one way or the other, it is dead and there is no question about it. But the president remains; he continues for the balance of the four years, because all of these things are laid down in a written constitution.

We operate with a minimum of written guide lines. We operate on the basis of tradition and precedent. I submit that this makes