

North America Act and also under Sub-section (2) of Section 7 of the Statute of Westminster.

Circle of authority

The situation may be represented by a circle divided into three segments. One segment represents the authority of the Parliament of Canada to make constitutional laws. Another segment represents similar authority possessed by the legislatures of the provinces. The remaining segment represents the area of jurisdiction that is beyond the authority of Parliament or of the legislatures; the sole power to make constitutional laws in this residual area rests with the British Parliament. In addition, the British Parliament has, theoretically, a concurrent jurisdiction over the federal and provincial segments.

The problem of finding a suitable method of amending the Constitution of Canada exclusively in Canada involves two things. First it must be decided what are the appropriate legislative bodies in Canada to which should be transferred jurisdiction over that segment of our circle that is now within the exclusive authority of the British Parliament. Secondly, we must remove from the British Parliament the jurisdiction it now has over this segment, and also the concurrent jurisdiction it now possesses over the areas included in the segments of our circle now falling within the jurisdiction of Parliament or of the legislatures.

Constitutional amendment was discussed briefly by the Dominion-Provincial Conference of 1927. A special committee of the House of Commons at the 1935 session of Parliament studied and reported on the best method by which the British North America Act might be amended. Constitutional amendment was again discussed at a dominion-provincial conference in 1935; a sub-committee was appointed to prepare a report on a method of procedure to amend the Constitution of Canada; a report was duly submitted, but no further action was taken. In 1950, a conference was convened to find a method of amending the Constitution entirely in Canada but, while considerable progress was made in clarifying issues, the conference did not succeed in finding an amending formula likely to be acceptable to all governments concerned.

A conference of attorneys-general was convened in October 1960 with a view to arriving at a basis for the amendment of the Constitution of Canada, and met four times in the succeeding 14 months. These conferences drew up a draft statute under the leadership of E. Davie Fulton, then Minister of Justice, but some differences of view remained and the plan was not carried through to completion. It was