work a constitution for five millions of people inhabiting half a continent under such rigid and technical ruling as the hon. member for Bothwell (Mr. Mills) has laid down. Would it not be a reproach to the makers of the Constitution to say that the Speaker of the Senate cannot leave his Chair for five minutes to take a cup of tea without throwing the whole constitutional machinery out of gear, without making it necessary to close the doors of Parliament and send the members home about their business ? What an absurd conclusion this would be. Would you not say that those who made such a law were a set of children and not statesmen ? I take the view that we have ample power to deal with such difficulties under the reserve power that there must be in every great body, and under the common law there is power in this Parliament to make provision in such a case as this. I have a memorandum here covering the experience of the Senate during twenty-three years and setting forth four or five cases in which, through death, illness or incapacity, the Senate has been left without a chairman, the difficulty being sometimes overcome by the election of a temporary chairman and adjournment, sometimes going to the Crown for a commission to appoint a substitute. These are the shifts they have been driven to in other times and which, under present circumstances, they cannot escape. I wish, as I sit down, to call the attention of the House and the hon. member for Bothwell (Mr. Mills) to the fact that this experience under our Constitution is not new. There are other great constitutions that have been enacted by the Imperial Parliament. There is the constitution granted to New South Wales forty odd years ago, the constitution given to the colony of Victoria—not federal, I grant you, but elaborate full, with most minute and particular provisions for the appointment of Speakers, for the organization of legislative bodies and the arrangement of their procedure. This constitution had not been working five years before this very difficulty which has arisen in Canada arose in the colony of Victoria. Opinions were divided upon it. One set of lawyers were strict and technical ; they took the view advocated by the hon. member for Bothwell (Mr. Mills) and said : You have a written constitution and if there is in it a declaration that the Speaker of the Assembly must be elected he must be elected ; if it enacts that the chairman of the Legislative Council must be appointed by the Crown, he must be so appointed. But there were other lawyers in these chambers who said : Let us bring common sense to bear upon this question. Is it possible that the Imperial Parliament would give a constitution to this colony made up of hundreds of thousands of people and restrict them so closely that if the Speaker of the Legislative Council wants to go out and smoke his pipe you have to go across the ocean, tweleve thousand miles, to petition for an amendment of the constitution before any person can be appointed to fill his place temporarily ? That may be law, but it is not common sense. And their view so strongly prevailed that, to remove all doubts, in the year 1865, two years before our Constitution was born, an Imperial enactment to meet the case was passed. It is known as the Colonial Laws Validity Act. There is a clause dealing with this precise difficulty and giving an excellent, common sense way out of it. Here is the clause which makes it clear that we have the power to pass this Act. The Act is cited in the Law Books as 28-29 Vic., Colonial Laws Validity Act of 1865, the 5th section of which reads as follows :--

> Every Colonial legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish courts of judicature, and to abolish and reconstitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein ; and every representative legislature shall, in respect to the colony under its jurisdiction, have, and be deemed at all times to have had full power to make laws respecting the constitution, powers and procedure of such legislature ; provided that such laws shall be passed in such manner and form as may from time to time be required by an Act of Parliament, Letters Patent, Order in Council or Colonial law for the time being in force in the said colony.

And I call the attention of the hon. member for Bothwell (Mr. Mills) particularly to these words : "Shall have, and be deemed at all times to have had full power," and so on. There was a difficulty like ours and a solution applied by the Legislature to make it impossible for technical and austere lawyers to say : You must go to England in order to meet any such case and provide for the smooth working of the constitution. If there were any doubt as to the Bill now before the House being within our powers, to my mind, the clause I have quoted settles the matter. What can you say in reply ? You can say, to be sure, that the British North America Act was passed two years afterwards. But does it repeal this Colonial Laws Validity Act ? No. Is there anything to indicate that it was the intention to repeal it ? No. Was it not fresh in the memory of the Colonial office and of the legislators who enacted this Constitution ? Yes ; it had been passed but two years before. Does it not deal with this precise matter ? Undoubtedly it does, for what could be clearer than the words I have read ? Then, if the hon. member will follow me, he must show that there is a repugnance between the Colonial Laws Validity Act and this Constitution which makes the second a repeal of the first. That is an unsound view which cannot be sustained in argument. There was no failure in this case and, so long as that Act stands, so long are we relieved of embarrassment in a case like this.

Sir RICHARD CARTWRIGHT. I do not like to be in a hurry when called upon to give my vote on grave constitutional ques-