the House of Commons concurred in the committee's report and adopted the standing orders recommended by the committee. The same unilateral method of adopting or amending our standing orders has been followed to this day, and a similar procedure has obtained in the Senate. The only lawful method, as set out in section 5 of the Colonial Laws Validity Act, 1865, has never been followed.

I have already pointed out that the Statute of Westminster, which did extend certain rights of the Parliament of Canada and of other dominion legislatures in respect of the constitution, did not touch this question of passing orders of practice and procedure, and the same applies to the 1949 amendment. Therefore I submit that it follows that the motion to concur in the committee's report as one respecting the procedures of this house is out of order, and does not comply with the authority given parliament in compliance with section 5 of the Colonial Laws Validity Act, which states that such a matter must be introduced as a bill, pass both houses, and receive Royal Assent. But even in the event it returns in that form it is questionable at the present time—and I raise this so that the government might give it some thought—that the house has a lawful procedure with which to deal with it.

I know, Mr. Speaker that you have expressed, as have your predecessors, certain limitations with respect to the decisions you make, but I think this matter goes so much to the root of our practice that it involves a careful inquiry as to how far Your Honour as the receiver of the rights, customs and traditions of this house, and as our protector, must take into account the argument I am making.

There was one very interesting case which I will cite to Your Honour, and then sit down. The State of New South Wales some years ago amended its constitution by providing that no amendment to the constitution to abolish the upper body should be accepted until there had been a popular referendum following which, if a majority was received in the referendum, the matter then could be brought back to the government and have Royal Assent by the representative of the Crown. A subsequent government desiring to short-circuit this proposal proposed two amendments to the constitution, one of which would strike out and repeal the section in question, and the other one had the effect of directly, by act of the legislature, abolishing the upper house. These two proposals passed the house and then there was an attempt to let them receive Royal Assent.

• (2:40 p.m.)

Before this was done two members of the legislature appealed. I point this out, not in terms of a threat but in terms of probability. This is an opportunity which is available to any citizen of Canada or any member of the house, if I am correct in my argument. Two members of the legislature can appeal to the court for a writ of prohibition to deny the right of the Crown to give royal assent, on the ground that the constitution and statutes of that country attached a certain condition that the condition had not been met, and that because of the section of the Colonial Laws Validity Act which I quoted it was impossible and illegal for this to be made the law of the country.

This went to the Privy Council, which included some of the most distinguished counsel who ever practised before that court. Stafford Cripp, D. M. Britt and others appeared. A judgment was delivered by Lord Sanky which I shall not quote, although I have it here. The judgment said very simply that despite the length of time which had elapsed the legislature, as all other legislatures, was bound by section 5 of the Colonial Laws Validity Act and under the circumstances the Privy Council declared that the sections were invalid because they had not followed the procedure which had been prescribed.

Yesterday we spent a great deal of time debating the procedural aspects of the matter with which we are now dealing and I know the house is quite anxious to get on with our business and reject the motion which may be placed by the hon. member. Therefore I shall not develop the argument at as great length as I could. Briefly, this is it: We are a legislature with a derived authority; the only way in which we can pass proper standing orders governing our practices, procedures and privileges is by an act of parliament, and the proposal of the hon. member does not fall within this category. Under the circumstances Your Honour this house must reject it.

Hon. Donald S. Macdonald (President of the Privy Council): Mr. Speaker, the hon. member's arguments really relate to a chain of statutory title. I should like to bring to Your Honour's attention a number of provisions. First of all I would refer to the British North America Act and the Senate and House of