Commons only; it consists of three estates. For those who may be interested I would point out, as I pointed out during the last session, that section 17 of the British North America Act gives a definition of parliament. It reads:

> There shall be one parliament for Canada, consisting of the Queen, an upper house styled the Senate, and the House of Commons.

Therefore, it follows that parliament is not acting unless all three estates combine. There must be action alike by the Senate, by the Commons and by the Sovereign. We call it the royal assent when dealing with the sovereign's will. The Commons enacts its legislation and the Senate does likewise. It is:

> His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: . . .

In England it is:

> Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows: . . .

After the Parliament Act was passed in 1911 there was still provision made to provide for that particular case where legislation becomes effective after it has been rejected more than once by the House of Lords. Those of us who are familiar with the development of constitutional practice in this country will recall that when the referendum measure was submitted to the courts of Manitoba it was held to be ultra vires. It went to the privy council and the privy council held that it was an illegal exercise of power on the part of the legislature to act as it did to provide, for making legislation effective by referendum. Otherwise it would have meant that a measure might become law without the two estates of the legislative assembly acting together.

What was done in 1919? It will be observed that the House of Commons passed a resolution, but bear in mind that it was the House of Commons. The operative words of the resolution are:

> —humbly approach Your Majesty praying that Your Majesty hereafter may be graciously pleased to refrain from conferring any titles upon your subjects domiciled or living in Canada,

In other words, it asks the sovereign by resolution of the House of Commons to cease to exercise his prerogative in Canada. That was as ineffective in law as it is possible for any group of words to be. It was not only ineffective but I am sorry to say, it was an affront to the sovereign himself. Every constitutional lawyer, or anyone who has taken the trouble to study this matter realizes that that is what was done. I shall refer presently to the matter in the light of the discussion the other day in the House of Lords.

Let us see how the prerogative can be parted with. The prerogative of mercy stands on exactly the same level as the prerogative with respect to honours and awards. Will anyone in this house say that if this House of Commons passes a resolution asking His Majesty to refrain from the exercise of the prerogative of mercy, it would be effective? The life of an individual may tremble in the balance if the construction placed upon this resolution is the construction to be placed upon the exercise of the prerogative of mercy. There is no difficulty in seeing that when one branch only of the legislature acts there can be no measure passed that will affect any question. That must be the subject matter of legislation and a resolution cannot be law and it cannot be made into law. A resolution of the House of Commons is the pious opinion expressed in form of a majority of a group of gentlemen acting within their legislative power or otherwise. The matter of the prerogative and how it may be taken away is stated so clearly that I shall not do more than make a single observation with respect to it, that is, the only method by which the crown can be deprived of its prerogative is by statute. It must be a very special form of statute. Halsbury says:

> The powers of the crown when acting in association with parliament are unlimited. The king in parliament is the sovereign power in the state. It is for this reason that there is no law which the king in parliament cannot make or unmake, whether relating to the constitution itself or otherwise; there is no necessity, as in states whose constitutions are drawn up in a fixed and rigid form and contained in written documents, for the existence of a judicial body to determine whether any particular legislative act is within the constitutional powers of parliament or not; and laws affecting the constitution itself may be enacted with the same ease, and subject to the same procedure, as ordinary laws.
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> In practice, however, the King now plays a purely formal part in the making of statutes, for, by convention, he has lost the power of refusing his assent to a bill passed by both houses, or in terms of the Parliament Act, 1911, by the House of Commons alone.

Mr. STEWART (Edmonton): Passed by the Commons alone?

Mr. BENNETT: There is special provision with respect to that. The language makes special provision for the terms in which the king is to act. It refers to a measure passed by the Commons on two occasions and then reviewed by the Lords, and there is a special provision under the Parliament Act, to which the king became a party, as I shall