
Furthermore, shortly before the passage of the B.N.A. Act, 1867, the British Parliament enacted the Colonial Laws Validity Act of 1864. This act had the effect of nullifying a colonial enactment if it was repugnant to any act of the British Parliament. The laws of Britain applicable in its colonies were of two kinds -- namely, those that were applicable by adoption by the local legislature and those that were applicable *in proprio vigore* (that is to say, by force of their own terms). The former, being enactments of the local legislatures, could be repealed by them. The latter, however, could not be altered by the local legislatures. It has been held by the courts that the limitations of the Colonial Laws Validity Act applied only to Imperial Acts in force in a colony *in proprio vigore*, and not such as were applicable by adoption. The Colonial Laws Validity Act was, therefore, a further fetter on the legislative power of Parliament and the provinces.

Thus, by virtue of Section 129 of the B.N.A. Act, 1867, as originally in force, and by virtue of the Colonial Laws Validity Act, neither Parliament nor the provincial legislatures of Canada could repeal or amend an act of the British Parliament that extended to Canada by virtue of its own terms, and any act passed by a legislative body in Canada would be void or inoperative if it was repugnant to any British act.

Statute of Westminster

The limitations imposed by the Colonial Laws Validity Act were removed by the Statute of Westminster of 1931, Section 2 (22 George V, c.4 (U.K.)). The limitation imposed by Section 129 of the B.N.A. Act was also removed, except (at Canada's request) as to the British North America Acts 1867 to 1930. Today, the Parliament of Canada or the legislatures of the provinces have the power to repeal or amend any act of the British Parliament, except the B.N.A. Acts 1867 to 1930. It follows that, if any acts of the British Parliament other than the B.N.A. Acts of 1867 to 1930 applicable to Canada are of a constitutional character, they may be repealed or altered by the appropriate legislative body in Canada.

The terms of the Statute of Westminster raise an interesting question. The sole limitation on legislative power in Canada, according to Section 7 of that act, is the inability to amend the B.N.A. Acts, 1867 to 1930. This collective title includes the original act of 1867 and all amendments to 1930. Yet there have been amendments since 1930. The collective title is now British North America Acts 1867 to 1975. Does the phrase "1867 to 1930" include later amendments? Apparently not. Mr. E.A. Driedger, Q.C., concluded simply, in an article in the *Canadian Bar Journal* in August 1968, that
