

Procedure and Organization

defined in the act, has the right to pass laws—I emphasize those words, “to pass laws”—providing for the constitution, for changes in the constitution, and for matters dealing with procedure and privileges relative to that legislature. The words used are “to pass laws in the manner and form provided.”

The only law relating to Canada is, of course, the imperial statute of 1867, the British North America Act, which is largely silent on this issue except for the sections I have mentioned. I therefore suggest to Your Honour and this house that we are in a very grave position. As my research has developed, as I have examined these records and read some of the cases which went to the Privy Council, I have come to the conclusion that this parliament and previous parliaments have been most neglectful in failing to cover this very serious and grave omission.

The Colonial Laws Validity Act of 1865 defines “colonial legislature”—I am sure the Prime Minister will be delighted to hear that word colonial—and “representative legislature.” The two are not mutually exclusive; rather, a representative legislature is included within a colonial legislature, and in order to have any right at all even to pass laws we have to come within that definition, shameful though it may be.

An hon. Member: What year is this?

Mr. Baldwin: This year is 1969. I am glad some member of the government has awakened to know what day it is.

The power given a representative legislature only to make laws respecting procedure applies in the first instance at least to action by both chambers and the Governor General in the form of a bill, passed by both houses and given Royal Assent. I have already referred to this in the British North America Act.

The proviso contained in section 5 of the Colonial Laws Validity Act has operated in three ways. The first is by an imperial act of parliament, that is, the B.N.A. Act and amendments which entrench the quorum and majority rule in each chamber; the provision that a money bill cannot originate in the Senate, and in the Commons must be accompanied by the recommendation of the Governor General. Those are three aspects in which the British North America Act deals with procedure and privilege in respect of the legislature.

The second way in which it has operated has been by the royal instructions to the Governor General accompanying his Letters Patent, and the third way is by procedural laws of the Parliament of Canada, which are very rare.

It is also my recollection that there are some provisions in the Interpretation Act which do invest parliament with certain procedural rights. In this connection there is also the War Measures Act. Hon. members who have been in this house for some time will recall the debates which surrounded it. Finally there is the House of Commons Act, which the Minister of Justice (Mr. Turner) discussed the other day, and which provides for the appointment of the Commissioners of Internal Economy and so on.

But, Mr. Speaker, even the passing of the Statute of Westminster and even the 1949 amendment to the constitution do not change this limitation on the capacity of this house to deal with matters of procedure. The 1949 amendment to the B.N.A. Act and the Statute of Westminster did allow an extension of powers so far as matters of the constitution are concerned, but they left strictly alone this question of dealing with matters of procedure. Not to this date, Mr. Speaker, save with the exceptions I have mentioned, has the Parliament of Canada passed a law to establish rules, regulations or standing orders for the Senate and the Commons or, alternatively, passed a law to empower each chamber to adopt its own rules or standing orders. No statute, no law has been passed within the meaning of the Colonial Laws Validity Act, and once more I repeat you search in vain in the B.N.A. Act to find such a right.

The House of Commons when it first sat on November 7, 1867, adopted of its own motion the rules, regulations and standing orders of the legislative assembly of the late Province of Canada, according to the *Commons Journals* of 1867-68. On November 15, 1867—I do not know whether I hear dissent or approval, Mr. Speaker. With this noise I find it rather difficult to place these matters before the house, matters which I think are of exceeding importance.

Mr. Speaker: Order, please.

Mr. Baldwin: On November 15, 1867, the House of Commons appointed a special committee to assist Mr. Speaker in forming rules, regulations and standing orders for the government of the house. On December 20, 1867,