decisions and by the long parliamentary practice which I have already described concerning amendments to the British North America Act in federal matters.

For all these reasons, I submit that the proper distinction to make is the following: The British North America Act resulted to some extent from the consent expressed on behalf of Canada, Nova Scotia and New Brunswick; but in form it is purely and simply an Imperial Statute; it does not constitute "Articles of Confederation"—in which hypothesis no amendment could be made thereto without the consent of all the signatories.

Canada is not a confederation, and I wish to remark here that the British North America Act does not use anywhere the word "confederation". In the preamble there is a reference to the desire of the three provinces to be federally united, and the term used afterwards in the Act is simply "union".

For all these reasons I am convinced, like Clokie at page 193, and like Rogers and Dawson, that Canada is a federal state, or federation, not a confederation of states. I am convinced also that in the British North America Act, which created a federal state with four original provinces, there are parts which are of quite a different character. Without trying to give an exhaustive list of such essentially distinct parts in the Act of 1867, I may point to Part V, sections 58 to 90, entitled "Provincial Constitution", and also to section 92 entitled "Exclusive Powers of Provincial Legislatures". Such provincial constitution and provincial powers constitute for our ten provinces acquired rights; and by the present measure the Canadian Parliament will not obtain any power either to amend the provincial constitution or to take away from the provinces any of their rights. Any Act of our Canadian Parliament encroaching on Part V or on section 92 would evidently be declared *ultra vires* by our courts.

Again let me refer to section 93, respecting education, and to section 133, concerning the use of English and French. Such sections of the British North America Act are intrinsically quite different from the sections which concern exclusively our federal constitution, namely, Parts III and IV. The motion before us is expressly limited to federal matters and expressly excepts all other subjects from its scope. Thus, we do not touch any part of the constitution which concerns provincial constitutions, provincial rights or the protection of minorities. It would be highly improper for the Canadian Parliament to apply to Westminster, without the consent of the provinces, to obtain power to amend the British North America Act in either of such provincial or special matters. In other words, any amendment of that part of our constitution concerning provincial matters, and covering education and the use of both our official languages, will continue to be subject to Imperial enactments until we all agree on a different procedure.

On the contrary, in purely federal matters the effective control over amendments has been exercised since 1871 by the Canadian Parliament. As remarked a few years ago by Clokie, at page 24:

> The seventy-one year old practice of the Canadian constitution, the solemnly expressed conventions of dominion status, and the usage of fellow members of the British Commonwealth of Nations all combine to show that the sovereign British Parliament has now accepted a formal and technical role in relation to Canada similar to that long held by the Crown both in Britain and in Canada.

Dawson at page 146 refers

> . . . to the very real conventional power of the dominion parliament to request the passage of amendments from the British parliament and the obligation laid on the latter to follow this request.

Through the present Act we merely want to remove the apparent contradiction now existing between legal procedure and actual practice in relation to amendments in purely federal matters. The Canadian Parliament is simply asking for a power equivalent to that of our provinces over their own provincial constitutions, as specified in section 92, paragraph 1. Our provinces are mistresses in their own houses. Let the Canadian Parliament be master in purely federal matters.

Until the present measure is adopted, as pointed out by Dawson, page 138:

> Canada occupies a somewhat humiliating position; for after many years of insistence on her independent status, she is compelled to admit that she is dependent upon an outside legislative body for the exercise of one of the most basic powers of self-government.

The further step which we are now taking towards our full national independence and sovereignty constitutes a great historical achievement. The motion now before us does not take away from the provincial legislatures one iota of the jurisdiction which they now effectively enjoy and exercise. We are only obtaining formal sanction for the jurisdiction already definitely recognized as pertaining to the Canadian Parliament. We merely want to set up a logical procedure, perfectly in accordance with the principles affirmed by a long series of precedents. In constitutional matters, honourable gentlemen, such precedents acquire with time an irresistible strength. I recall the saying of one of my old professors that "law is to custom like the moss which re-covers a stone". Today we are simply asking the Imperial Parliament to put in legal form our conventional practice for three-quarters of a century.