himself admits the increase in importations in some lines of agricultural implements in Manitoba. This is, he says, "largely, in fact mainly, due to continuous agitation against Canadian manufactures and everything Canadian, by a small percentage of our population, who seem willing to pay a price for American machinery (very often of the previous year's manufacture) much more than we charge, and even more than the duty would amount to if added to our prices, apparently for no other reason than to make martyrs of themselves so that they may have what appears to them good cause for complaint against the Government policy." A Toronto paper supporting a protectionist policy, lately made a somewhat similar statement. It said, in effect, that Canadians, or many of them, were so unpatriotic that they will buy American goods in preference to Canadian, even when the latter are cheaper and of better quality, and that it is consequently necessary to keep up the high tariff for the protection even of those lines of goods in the production of which Canadian manufacturers clearly equal or excel their American rivals. Here is perversity indeed! Such explanations border on the absurd. Few Manitoba farmers have yet reached the pitch of affluence at which they can afford to throw away their money even to gratify their love of a grievance. If there is one thing in regard to which their actions, like those of the average toiler everywhere, can be safely predicted, it is that they will buy what they believe to be the best implements in what they regard as the cheapest market. On the other hand, assuming the facts to be as alleged, they can be accounted for much more naturally and logically on a different principle. The deliberate preference in favor of an American machine could be explained with much more probability as an indignant protest against Government interference with their right of free purchase, and a practical declaration in favour of commercial freedom. Viewed in this light it would contain a valuable suggestion for both the Government and the favoured manufacturer.

HAS THE PARLIAMENT OF CANADA CONSTITUENT POWERS?—I.

During last session of the Parliament of Canada, a bill was introduced into the Senate for the appointment of a *Deputy*-Speaker to preside over the deliberations of that body in the absence—through illness or otherwise—of the Speaker. No one seems to have objected to the measure on the score of its unreasonableness and in debate a number of instances were recalled of public business delayed in the Senate through such enforced absence of the Speaker. But, convenient as such an appointment would undoubtedly be, it was strongly argued by Senator Gowan and other members, lay and legal, of the Senate that the Parliament of Canada has no power to pass such a measure; that the British North America Act—our *lex ultima et suprema*—has made express provision on the subject. In their anxiety, however, to remove all hindrances to the smooth working of the legislative machinery of their serene chamber, the Senate by a large majority passed the bill, but "in the dying hours of the session" the House of Commons allowed the measure to stand over, presumably for consideration next session.

Though this measure does not seem to have attracted much attention outside Parliament, it does very squarely raise the broad question: Has the Parliament of Canada constituent powers?—that is to say: Can it determine by its own legislation what from time to time its form of organization shall be?

It will hardly do to treat the measure in the easy-going fashion of the Hon. Mr. Ouimet, who suggested that as the bill affected merely the internal working of the Senate and was apparently much desired by that body, the House of Commons should pass it out of courtesy. "Is it not a little thing?" has been the operative excuse for much mischief in this world but even that plea is wanting in this case. The subject matter of the bill may at first blush appear comparatively trivial but a moment's consideration will suffice to show the vital character of the issue raised by it. If the Parliament of Canada has not the power—i.e., cannot *legally*—pass such a measure, all legislation concurred in by the Senate while presided over by a Deputy-Speaker would be but waste-paper—waste-paper, however, which persons affected by such legislation would be rash to disregard. Pending judicial decision, given probably after a tedious legal journey to the Privy Council, complications extensive and of injurious effect would most certainly arise. The uncertainty which frequently exists under our federal system as to the validity of single measures, or single clauses of a measure, would throw its baleful shadow over the legislation perhaps of an entire session. "Between the devil and the deep sea" would be a mild way of expressing our position.

The debate took a wide range and a whole host of questions touching the relations between colonial legislatures and the Parliament of Great Britain were, perhaps unnecessarily, discussed. The issue after all is a legal one and requires for its solution simply that the true construction shall be determined of two Acts of the Imperial Parliament. In order however to place the matter in an intelligible light before lay readers, I shall have to digress shortly into the field of constitutional history, in order to emphasize one or two fundamental doctrines of British law.

Although, it is true, there is the statement somewhere that in the early days of Virginia an assembly of burgesses "broke out" in that colony, the expression must be regarded as a metaphoric allusion to the natural way in which the early colonists took to self government rather than a description of legal method. Colonial legislatures were in early days established—I know of no exception—by the exercise of the royal prerogative, the expression of the royal will in charter or commission. In these days they are nearly always established by Act of the Imperial Parliament. In regard to the powers of the former class of colonial assemblies we have the authority of the Judicial Committee of the Privy Council—the highest tribunal in the Empire in colonial cases—that such an assembly has such powers and such powers only as are conferred by the charter or commission under which it has its being. It was contented that there are certain inherent powers in all legislative bodies throughout the Empire, from the Parliament at Westminster down, but this doctrine was completely negatived by the judgment of the Committee. In these matters no analogy can properly be drawn between the Imperial Parliament and colonial assemblies, the former having a law immemorial—a *lex et consuetudo parliamenti*—to the possession of which the comparatively modern colonial legislatures can lay no claim. The extent of their powers must be determined solely by reference to the terms of their creation. A fair, even liberal construction is to be placed upon these charters and commissions. "Whatever, in a reasonable sense, is necessary to the existence of such a body and the proper exercise of the functions which it is intended to execute is impliedly granted whenever any such legislative body is established by competent authority." Such implied grant has to be gathered from the terms of the instrument itself but that a colonial legislature has power to alter the terms of the instrument under which alone it has existence has never been contended before a judicial tribunal and the proposition is upon the very face of it absurd.

The argument would appear to be *a fortiori* that where a colonial legislature is the creation of an Act of the Imperial Parliament any attempt on the part of the colonial assembly to alter its constitution would be utterly nugatory. There are certain limitations on the exercise by the British Crown of its prerogative right to establish legislative bodies in British colonies; there is no limit to the legislative power of the Imperial Parliament—no limit, that is to say, capable of judicial enforcement. She speaks with authority for the whole Empire. Her laws are operative wherever throughout the wide stretch of that Empire she chooses to make them so, and what she ordains judges must enforce by judicial decree. Of course not every statute passed by the Imperial Parliament is in force in the colonies. A very small portion indeed of imperial legislation is of colonial operation, simply however because in these days of responsible government, the colonies are permitted to determine for themselves the laws by which in matters of local concern they are to be governed. The Imperial Parliament, *in practice*, legislates for Great Britain and Ireland and in reference to matters of supposed imperial concern; *in law* she may, if she so choose, legislate about the smallest matter of private concern in any of her numerous colonies. The supreme legislative power is there, and no legislative body in a colony has power to alter in the slightest degree the provisions of an imperial Act extending to such colony. Any attempt on the part of a colonial legislature to enact as law that which is repugnant to the provisions of an imperial Act in force in the particular colony is utterly void.

The operation of this principle of British law in preventing colonial legislatures from altering their legislative machinery, even when the change did not in the least affect imperial interests, was found to be inconvenient. When, for example, we thought it desirable to make the Legislative Council of (old) Canada elective we sought imperial legislation to effect the change. That the Imperial Parliament deemed the matter one of local concern to be