

*Newfoundland*

British North America Act, and that the Canadian legislation will come into effect upon dates to be fixed by proclamation of His Excellency the governor in council. That was requested by the delegation from Newfoundland because they said it would be inconvenient to have the whole body of statute law of Canada come into force at one given moment. Nothing can be done to bring that body of law into force until the union has become effective the last minute of March 31, 1949. They felt that there should be a proclamation immediately bringing a certain portion of these laws into effect, but that there were others for which preparation for proper administration would have to be made, and that it would be desirable to provide that they might be gradually brought into effect as the proper administrative machinery had been set up to enable them to be followed and carried out.

Perhaps the question may arise as to why it is necessary to have a statute passed by the parliament of the United Kingdom to confirm the entry of Newfoundland into Canada. There are two reasons for that. One is that this does in fact, though it may not in form, amount to an amendment to, or a derogation from, the terms of the British North America Act in so far as Canada is concerned.

Hon. members will recall that under section 146 of the British North America Act it was provided that Newfoundland might be admitted into the confederation upon joint addresses of the houses of parliament of Canada and of Newfoundland by order made by, then Her Majesty, on the advice of her council of the United Kingdom. This time it was not possible to comply, even if it had been desirable to do so, with the exact terms of the procedure set out in section 146, because there were no houses of parliament of the colony of Newfoundland; and secondly, it might not have been desirable to have that procedure resorted to because, since the enactment of the Statute of Westminster and as a consequence of constitutional developments, His Majesty, on the advice of his ministers responsible to the parliament of the United Kingdom, no longer exercises the prerogatives of the crown over Canada.

His Majesty now, by reason of the situation or development which brought about the Statute of Westminster, and which is registered in the terms of the Statute of Westminster, exercises the royal prerogative in respect of Canadian affairs upon, and only upon, the advice of his ministers responsible to this parliament.

The second reason is that at the present time the government of the United Kingdom, responsible to the parliament of the United Kingdom, still has the ultimate responsibility for the affairs of the colony of Newfoundland.

And though it might be thought that Canada, on the decision of its own parliament, should be entitled to add to its territory, and though under the Statute of Westminster the parliament of Canada has the same rights, recognized internationally, to make laws having extraterritorial effect as has the parliament of the United Kingdom, a law of the parliament of Canada would hardly reach out and gather in a territory that was subject to the legislative and administrative jurisdiction of another autonomous nation. And whatever may be the fine points of technical procedure in that regard, the relations between Canada and the United Kingdom are not such that anything which would appear so discourteous would be considered on either side.

It was felt therefore that the most expeditious procedure might be to follow the precedent which had been established when changes were made with respect to natural resources in the possession of the western provinces. There the entry of the western provinces into confederation had been accomplished in accordance with the terms of the British North America Act. However, it was found that when it became advisable to modify those terms, their modification would constitute a derogation from the express provisions of the British North America Act. In order to bring that modification about in such a manner as to leave no doubt in any mind that it was done in a form beyond successful contestation before the courts, agreements were made between the government of Canada and the governments of each of the western provinces. The agreements contained clauses very similar to this section 50 which I have read to the house. Those agreements were to be subject to the approval of the Canadian parliament and the approval of the legislature of the province concerned, and confirmed by an act of the United Kingdom.

That was the procedure adopted at that time. It is a procedure which operated in a manner that no one has been tempted in any way to test. It is a procedure which requires short bills, in the case of the Canadian parliament, expressing, more or less, only that the terms of agreement of Newfoundland with Canada annexed to the bill as a schedule are ratified and, with respect to the parliament of the United Kingdom, that those terms shall be a schedule to the act which will be introduced before the parliament of the United Kingdom, if and when this parliament sees fit to proceed further with the matter.

The result will be that everything contained in the terms of union will have the effect of law for all the Canadian people, those who now constitute the inhabitants of the nine present provinces and those who, by