

Newfoundland

Mr. Howe: He cannot read.

Mr. Diefenbaker: We had no idea then whether or not the provinces had been consulted. I do not hear any guffaws from the other side at that statement.

Mr. Abbott: Listen a little more closely.

Mr. Diefenbaker: Listening to the frivolous manner of the Minister of Finance (Mr. Abbott), one is led to believe that he regards "facetious" as synonymous with "finance".

Mr. Abbott: I knew that would be a dandy.

Mr. Diefenbaker: Mr. Speaker, it is difficult to continue against such a group—

Mr. Blackmore: Would the hon. member speak more loudly?

Mr. Diefenbaker: What are my hon. friends, the Minister of Trade and Commerce (Mr. Howe) and the former Minister of Reconstruction and Supply, saying?

Mr. Howe: I will make my speech presently.

Mr. Diefenbaker: I am glad to hear that, because I should like to remind him of the lines:

But man, proud man,
Drest in a little brief authority,
Most ignorant of what he's most assur'd.

Then, continuing to read from the resolution:

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. The agreement containing terms of union between Canada and Newfoundland set out in the schedule to this act is hereby confirmed and shall have the force of law notwithstanding anything in the British North America Acts, 1867 to 1946.

What does that mean? Regardless of the British North America Act the British government is being asked by this house to circumvent a principle engrafted in the constitution. We in this parliament are asked to give approval to this course.

The next section of the resolution is equally clear:

This act may be cited as the British North America Act, 1949, and the British North America Acts, 1867 to 1946, and this act may be cited together as the British North America Acts, 1867 to 1949.

The British North America Act contemplated that Newfoundland would join confederation only upon compliance with certain provisions of the act. A roundabout way in the mechanical and legislative process has never been deemed proper at any time in amending the constitution.

I will refer now to some of the statements made in 1925, which are indicative of the support then given by members of the cabi-

net of the then Prime Minister to the whole question of the amendment of the constitution. There have been changes in the constitution in recent years. In 1946, the first breach in constitutional procedure developed in connection with an amendment concerning redistribution. The advantages achieved were taken as the excuse for circumventing the provisions of the constitution.

At that time I said, as reported on page 2235 of *Hansard*, and I now repeat:

... the test of looking not at the advantages of the present to be achieved by this short-cut method of amendment of our constitution, but rather at the grave potentialities inherent in making a precedent for amendment of our constitution by a majority of parliament. The great danger of attractive measures such as this is that of the people and the people's representatives, by reason of the very attractiveness, giving up the substance for the shadow.

In 1946 we took exactly the same stand as we now take, namely, that in the matter of amendment of our constitution, consultation with the provinces is absolutely necessary in the interests of our federation.

If I cannot convince by my own argument, or by what has been said by the hon. leader of the opposition, possibly I can convince by some of the statements made by outstanding leaders in this country in 1925. I have already referred to the question that then came before the house, a matter that must be faced in this country in the interests of our common development. That question is the amendment of our constitution to remove anachronisms while protecting the rights of each province within confederation.

One who spoke on the matter was the Hon. Mr. Lapointe, who in dealing with this matter said, at page 298 of *Hansard* of 1925:

First, the British North America Act itself is not only the charter of the Dominion of Canada; it is just as much the charter of the provinces of Canada. We derive our powers from the British North America Act; so do the provinces. They have no constitution other than the British North America Act; all their powers they derive from that act.

Then he goes on to say this:

Second, my hon. friend speaks of protection to minorities. That is not the only thing in the British North America Act in which the provinces are interested. They have all their powers which they have kept to themselves and which have been agreed by everybody to be their powers. Have we a right to amend the constitution without their consent, in the way, for instance, of taking away from them some of the powers which have been theirs since confederation.

Some hon. Members: Oh, oh.

Mr. Diefenbaker: I am being fair in reading this part. Mr. Crerar, who was then a member of the government interrupted and said:

This parliament would have that power in respect of all provinces excepting the four that originally entered confederation.