

Newfoundland

house and the Senate passed an address. The legislature of British Columbia passed an address, and an order in council by the British government gave sanction and effect to that understanding. The same thing happened when Prince Edward Island came into confederation; and, with a slight variation in procedure, the same thing happened when Rupert's Land was incorporated.

Here, Mr. Speaker, I now open a parenthesis. I am mildly astonished when a gentleman holding the responsible office of the last speaker, the minister of external affairs, refers in light terms to legality and legal quibbles when speaking of a thing so sacred as the constitution; of the instrument which makes secure our liberty and freedom of conscience, and which guarantees us the type of life of which we are proud and which the whole world envies. You must remember that this constitution provides a method for taking into this dominion certain areas. It prescribes certain conditions which must exist before those areas can come into confederation. It says that the colony of Newfoundland must pass an address or a resolution by its legislature before it can meet the requirements of the statute.

Let us be quite certain about this matter. This is not our statute; this is a statute of Great Britain. This is the statute enacted by the imperial parliament, the body in which the residuary powers of that island now abide, since their suspension, on the island's request, in 1930 or 1933. Who is it that says it has not the power to deal with this matter? Is it Newfoundland? Is it Canada? No. It is Great Britain that says this statute does not permit the king and his honourable privy council to ratify this agreement, be it good, bad or indifferent. The statute does not permit the ratification of this agreement between Canada and Newfoundland, because one of the conditions precedent, one of the elementary conditions, is lacking, and that is the will of the people of Newfoundland expressed through a duly elected legislature. That is the opinion of the law officers of Great Britain, Mr. Speaker, not of this House of Commons. The government of Great Britain says that under a particular statute the power is lacking to incorporate Newfoundland into the Canadian confederation by order in council. They have not got the power. Then, it is said by Great Britain, the statute must be amended. When the hon. Minister of Justice says that no amendment to the British North America Act is contemplated, he is in error. All I can say is, he cannot have read section 146 of the British North America Act. He should do penance for the

omission and make excuses to the hon. member for Algoma East (Mr. Pearson).

Let us go one step further. The statute has to be amended because there is not the power in the British government to act, owing to the fact that the conditions precedent have not been met. Just by chance, it happens that the statute to be amended is the Canadian constitution. For the moment, I sweep aside the Statute of Westminster and I bring the matter down to a very simple question of fact.

With all of the care and with all of the interest that any statement on legal matters from the Prime Minister (Mr. St. Laurent) always provokes in me, I have read the argument advanced by him. I know he says that the people of Canada, whether they live in Prince Edward Island or in British Columbia, are represented by their duly elected members in this house. I know that he says, and I am quoting what he said in 1946 as reported at page 1936 of *Hansard* of that year:

... that there was an assembly of distinguished gentlemen representing in the conferences four colonial legislatures, legislatures which legislated by delegation of the parliament of the United Kingdom ...

—and that there is no need to consult the provinces. I do not wish to be offensive. The Prime Minister knows that. I admire his advocacy and his subtlety; but I doubt the worth and the actuality of his argument. It is said, and I think it is admitted, that no confederation could have taken place had Quebec not been in agreement. I think that is admitted. Confederation could not have happened unless the delegation from Quebec consented to enter the pact. I will ask my right hon. friend what he thinks the verdict would have been had he stood before a jury composed of Cartier, Cauchon, Chapais, Dorion, Langevin and Taché, and a score of others, and said to them that the conditions upon which they were to enter confederation could be changed at any time that a mere majority of this house and of the Senate asked the British parliament to do it.

I apply to his argument that homely test. I do not think that many here who know the spirit of men like Dorion, and others of that valiant host that took part in those debates, will dare to assert for one instant that, had it ever been suggested to them that our constitution could be amended by the British parliament upon the request of a mere majority of these two houses, that they would have agreed to enter confederation. By applying that test, I think some doubt must be cast upon the validity of the Prime Minister's argument.