

Newfoundland

will come to the conclusion that all the law officers who had anything to do with this matter would be in that group.

Mr. Smith (Calgary West): Who are they?

Mr. Garson: The law officers of the United Kingdom, Canada and Newfoundland.

Mr. Smith (Calgary West): You met the law officers of the United Kingdom at the dinner recess?

Mr. Garson: Oh, no; I did not say that. Now, sir, it is only in this narrow, technical, police court sense that this can be said to be an amendment of the Canadian constitution.

Mr. Smith (Calgary West): I admit that, and you don't.

Mr. Garson: In that sense it is true that you must state in the act that this is confirmed notwithstanding the British North America Act. What does that mean? It means notwithstanding the fact that Newfoundland, not having a legislative body, was not in a position to present an address, this is confirmed. Newfoundland did—I will not say the next best thing, but I think a better thing. It went back to the people themselves and then, with the result of the plebiscite in place of the address, it went to the three governments concerned. Under those circumstances, of course, seeing that there was a procedural deviation from the terms of the act, it was necessary to say that this shall be so notwithstanding the British North America Act. But, sir, in no substantial or honest sense whatever can it be said that this is an amendment of the Canadian constitution. The obvious test of that is to ask whether there is anything in this section which is of general application to all the provinces of Canada, and the answer must be no. So when the hon. member for Calgary West (Mr. Smith) said he wanted to know whether this was an amendment of the constitution and I said the answer was no, this is my proof for the answer I gave.

It would be very interesting to speculate as to what would be the result of this perfectionism that is urged upon this house by hon. members opposite. The only way you could comply with the constitution to the last jot and tittle would be by washing out all the proceedings to date, giving back to Newfoundland responsible government, the very thing against which the people voted in the plebiscite, to the end that then they would have a legislature which could adopt an address that would comply with the section upon which my hon. friend the leader of the opposition (Mr. Drew) hangs his centralization argument. What an argument!

If you did not do that you might adopt the other course that some other speaker recom-

mended; that is, that in the present state of affairs we should obtain the assent of the provinces, which section 146 does not require at all. If you did that would you require a majority of the provinces, and what would be the nature of that majority? The leader of the Social Credit party (Mr. Low) said he thought it might be a two-thirds majority. Suppose you had, as we did in the dominion-provincial agreements, seven provinces on one side and the two most populous on the other. Would you say that was a majority? Or would it have to be all the provinces but one? Or all but two? Or what would it be? In the meantime this agreement, which believe me has been achieved after long months of negotiation and not without some difficulty, would be placed in jeopardy. Under those circumstances I think it is not too much to say that, while hon. gentlemen opposite make a great profession about being in favour of this union with Newfoundland, if they had held the opposite view and were strongly opposed to that union they could not have adopted a more ingenious technicality or a better way of frustrating the union and stultifying the attempts to achieve it than that which they have now adopted.

For that reason, sir, and in order to enlighten the hon. member for Calgary West, who was so anxious to have me break my silence, I can say that I propose to vote against the amendment and for the motion.

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, there was one remark made by the hon. member for Calgary West (Mr. Smith) with which I am in agreement. I hope I state his point correctly; for, as I understood the hon. member, he feels that the main reason we have the kind of problem with which we are wrestling in this House of Commons today is the lack of any provision in the British North America Act for its own amendment. I agree with him. As has already been suggested by my leader, the member for Rosetown-Biggar (Mr. Coldwell), this brings into bold relief the need for finding a formula for the amendment of the Canadian constitution within our own land.

I confess, however, that there are two things about the debate today that bother me. First of all, it seems strange to me that we should have all these technical and legalistic arguments about this method of securing an amendment to the constitution, when the subject before us is one concerning which there was some mention in the original British North America Act, as pointed out by the Minister of Justice (Mr. Garson). To that extent, namely, in view of what is in section 146, our general contention that there is no provision for amending the British North