

*Newfoundland*

the other speakers. Their speeches were interesting, eloquent, and excellent; they were everything but relevant.

What are we talking about here? We are talking about section 146 of the British North America Act. I must apologize if I indulge in the use of platitudes to try to prove the obvious, because throughout this debate there has been a complete disregard of the obvious, of the plain, of the clear, and of the sound. Section 146 says:

It shall be lawful for the Queen, by and with the advice of Her Majesty's most honourable privy council, on addresses from the houses of the parliament of Canada, and from the houses of the respective legislatures of the colonies or provinces of Newfoundland—

I shall not read the others.

—to admit those colonies or provinces, or any of them, into the union, and on address from the houses of the parliament of Canada to admit Rupert's Land and the Northwestern Territory, or either of them, into the union,—

On what?

—on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this act;

Then it goes on to say:

And the provisions of any order in council in that behalf shall have effect as if they had been enacted by the parliament of the United Kingdom and Ireland.

In other words, what we have here, and it is so very obvious a thing that it should not be necessary to explain it to intelligent people, is a provision whereby in British North America, which gives its name to this statute, those areas outside of the four original provinces can be brought into confederation by no more complicated a device than an imperial order in council—not any statute. As a matter of fact, two of the provinces which existed before confederation, namely Prince Edward Island and British Columbia, were brought in after confederation merely by order in council.

**Mr. Smith (Calgary West):** Certainly.

**Mr. Garson:** Does this section say one single word about the consent of any of the provinces already in confederation being necessary to that end? Not a syllable.

**Mr. Smith (Calgary West):** Do you not know why?

**An hon. Member:** If you listen you will know.

**Mr. Garson:** I suggest, therefore, that it is in accord with both the letter and the spirit of our constitution, and more particularly with section 146, which I have just read, that Newfoundland and these other colonies or provinces should be admitted into confederation without the consent of the provinces

already in confederation. The whole set-up contemplates that. As I have pointed out, the practice under this section has been uniformly in accordance with that conception throughout the years.

If Newfoundland had had an assembly, and that assembly had passed an address, and that address, together with the address of this parliament had gone forward to the United Kingdom, the United Kingdom would have brought Newfoundland into confederation by order in council without any question of consent by any of the provinces. Surely that is a sensible, reasonable, and prudent provision for the fathers of confederation to have put into the act; because, starting with the four provinces of Canada, if they ultimately desired, as they obviously did from section 146, to bring into union all of the territories which were then outside of confederation, surely no statesman in his right senses would have made the enlargement of our dominion conditional upon the veto of one province, or two provinces, or half a dozen provinces.

I suggest that my hon. friends, who have put forward this ridiculous amendment to the resolution, will search in vain in the confederation debates, or in the British North America Act itself, for any foundation for their oratory or for their amendment.

What is the difficulty with which the negotiators were confronted in this particular case? It is notorious what it was. The dominion of Newfoundland, as a result of circumstances entirely beyond its control, and certainly beyond Canada's control, had got into financial difficulty, and its legislative government was superseded by another perfectly legitimate and legal government, properly established in accordance with the law. By way of replying to the question of the last speaker, may I say that I do not profess to be an expert on this matter because the whole thing came freshly to my attention with the amendment moved by the leader of the opposition (Mr. Drew). No one will dispute, however, that in Newfoundland at the present time there is a legally constituted government with proper legal authority. But it is not a legislative body and therefore cannot produce the address that is necessary under section 146.

That posed a practical problem for the responsible negotiators of Canada, of Newfoundland, and of the United Kingdom. The law officers of those three governments, to whom we must give some small credit for knowing a little about the relevant law, and who have had perhaps somewhat greater opportunity of digging into it than even the hon. leader of the opposition, or the hon. member for Lake Centre (Mr. Diefenbaker) or the hon. member for Calgary West (Mr. Smith)—