

Newfoundland

constitution can be amended with due regard for such rights as must be protected. In the meantime, with this question before us, in view of the fact that the procedures followed have been those laid down, and in view of what seems to me to be the excellent case just made by the Minister of Justice (Mr. Garson), it seems to me that this house will be carrying out the constitutional provisions of 1867 by defeating the amendment moved by the leader of the opposition and passing the main motion.

Mr. T. L. Church (Broadview): Mr. Speaker, I wish to congratulate the house on the good temper which has been exhibited in this debate. Since I have been a member of the house I have seen the British North America Act rigged out in a coat of many colours. The last two speakers especially seem to show that they have a single view and a single heart at the present time. I refer to the Minister of Justice and the whip of the C.C.F. While the Minister of Justice wishes to abolish appeals to the privy council, which is the key to the British North America Act, a predecessor of his in office, Sir Charles Fitzpatrick, who was Chief Justice of Canada, counsel for Louis Riel in Regina many years ago, and a leading member of the bar, opposed the abolition of appeals to the privy council. So did Sir Allen Aylesworth, a brilliant lawyer and former Minister of Justice.

How did the Minister of Justice ever win Marquette? He owes it to the Conservatives. I am surprised that today we have in Manitoba and British Columbia a union government. I remember the decisions of the privy council. Let me say to the Minister of Justice that he owes his election, as the hon. member for Marquette, to the Conservatives who supported him.

Mr. Knowles: The truth will out.

Mr. Church: Today he agrees with the C.C.F. We have two individuals with a single view and a single heart on this question of the abolition of appeals to the privy council.

There was another leading Minister of Justice, Sir Allen Aylesworth, who gave a strong opinion. I have a great deal of respect for the present Minister of Justice. We have heard a great deal about him. I believe he will measure up to the hopes expressed by his supporters. But Sir Allen Aylesworth made a strong speech against the abolition of appeals to the privy council.

What put the Laurier government into office in 1896? It was the decision of the privy council. Thomas Greenway won a great victory in Manitoba on the Manitoba school question on a decision of the privy council. From 1908, on, that constituency went Conservative six or seven times.

[Mr. Knowles.]

I support the policy of my leader in connection with this bill. When the matter was referred to by the hon. member for Lake Centre in a speech on June 6, 1946, he quoted, from a debate of February 18, 1925, the opinion of Mr. Lapointe who was then Minister of Justice. It was on a motion of mine for constitutional and parliamentary reform that he made that speech. The former Minister of Justice, who was well liked in this house for his many fine qualities, said in his speech that he believed that any decisions about the British North America Act must be settled in the light of the present situation—by the men of today, said Mr. Maclean, of York South.

I have contended that we wanted the British North America Act for the living and not for the dead, and Mr. Lapointe agreed. On February 18, 1925, he said that it could be amended only at the will and at the request of the dominion parliament; but those who are just as much interested in this matter as the dominion parliament must have their say, must be consulted—meaning the provinces. It will be seen, therefore, that the authorities still differ.

I support the policy of my leader. He wants to consult the provinces, get their opinion on it at once, and then address His Majesty accordingly.

Another matter comes up, as to whether you are going to propose to change section 51, of the British North America Act, which deals with representation, giving Quebec sixty-five members, and section 21, which deals with the Senate, and sets out the respective divisions for Ontario, Quebec, and so on.

I remember away back in 1935, when the late Lord Bennett was leader of the Conservative party, the same debate went on as had been heard in 1925. Mr. Bennett, as he was then, as Prime Minister of that day, proceeded to set up a committee. I was asked to serve on it, but I did not like to do so. This was a special committee of the House of Commons which considered the whole British North America Act. That committee had before it the various heads of departments, including the late Dr. Skelton, and the then deputy minister of justice. There also appeared Professor Kennedy and Professor Scott. It was established before that committee that the first seven appeals to the privy council to amend the British North America Act were made without the consent of the provinces. Those appeals were of a great variety.

Could sections 91 and 92 of the British North America Act be changed by a majority vote if privy council appeals were abolished? Could section 133, which deals with the