

Newfoundland

In this case, a different procedure is being followed. The Prime Minister has indicated that he feels it is a more appropriate procedure in any event, and he has called attention to the principle embodied in section 4 of the Statute of Westminster, a principle which is recognized in the very wording of the resolution now before the house. At the beginning of the paragraph, at the foot of the page of the order paper which contains the form of the resolution, we read these words:

And whereas Canada has requested and consented to the enactment of an act of the parliament of the United Kingdom . . .

This wording was followed for a particular reason. Section 4 of the Statute of Westminster reads as follows:

No act of the parliament of the United Kingdom passed after the commencement of this act shall extend or be deemed to extend to a dominion as part of the law of that dominion, unless it is expressly declared in that act that that dominion has requested, and consented to, the enactment thereof.

So far as Canada is concerned the provisions of section 4 of the Statute of Westminster have been complied with, as was pointed out by the Prime Minister, because it is stated that Canada has requested and consented to the enactment. But in section 1 of the Statute of Westminster we find a definition of the word "dominion" and the various parts of the commonwealth to which that term was to apply. Section 1 reads as follows:

In this act the expression "dominion" means any of the following dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

This section recognized the status of Newfoundland as a dominion, a status which was not changed by the temporary suspension of the legislative authority of Newfoundland by the act of the United Kingdom which appointed the commission of government. I doubt whether any member of this house would suggest that, if the commission of government were dissolved by a further act of the parliament of the United Kingdom, there would be any question that Newfoundland would be restored to the status of dominion which it held at the time the Statute of Westminster was enacted. If that be so, it would seem to me that Newfoundland also should have been in a position to indicate their request for and their consent to the procedure which was being adopted. But it is clear that they are not in a position to follow that course within the provisions of the Statute of Westminster. In the draft act contained in the resolution now before us we find these words:

Whereas by means of a referendum the people of Newfoundland have by a majority signified their wish to enter into confederation with Canada . . .

[Mr. Drew.]

Those words do not comply with section 4 of the Statute of Westminster; in fact it is impossible—

Mr. St. Laurent: Would the hon. gentleman allow me to call his attention to one of the last sections of the Statute of Westminster, which provides that sections 2, 3, 4, 5 and 6 shall not apply to Newfoundland unless adopted by a statute of Newfoundland? My information is that there never was any such statute.

Mr. Drew: As the Prime Minister knows, there was no opportunity for Newfoundland to deal with this matter, because at that time she was in difficulties; she was dealing with the government of the United Kingdom with the thought of intervention in regard to her domestic affairs, and had been doing so for some time before the actual passing of the act which appointed the commission of government.

As to the authority of the government of Newfoundland, we have no way of knowing now what an elected body in Newfoundland would do in regard to this matter, because there is no such body to deal with it. The situation is one which can be dealt with in various ways. Let us not be too much concerned with the strict letter of the law; let us rather be careful to recognize the feeling that is being expressed today in Newfoundland, and realize that this feeling will continue over the years unless those who express it believe they have had an opportunity to deal with the matter in the appropriate way.

Without referring to any particular part of Canada, I should like to say this. It will be recalled that vigorous contentions with respect to union were put forward in the maritime provinces after 1867, and it is not difficult to find that those arguments are still remembered. In fact they can be recalled by many people in the maritimes because of the feeling which carried forward in respect to some details of the procedure by which the union was completed at that time. In all those provinces, however, there were in existence legislative bodies to deal with the matter, and those legislative bodies faced the usual democratic tests. In so doing they had the opportunity to place before the people the reasons why they felt it was advisable that the course be followed which was put before them.

A few days ago we had certain discussions here in regard to the British North America Act and amendments thereto. The Prime Minister contended, as I recall his point of view, that it was not necessary that the provinces be consulted about matters which did not affect them, but that in cases in which they were affected, they should be consulted.