

*Newfoundland*

changes were made by resolutions somewhat similar to the one we have before us.

We have been following precedent, but if this house should accept the amendment proposed by the leader of the opposition we shall be creating a precedent which I maintain may prove dangerous. Before I sit down I shall give my reasons for saying that.

As I said, in this instance we are following the precedent which was set in connection with other amendments. I have in my hand the parliamentary debates of the House of Lords, volume 142, for the session 1945-46, which contains the report of the debate on the amendment of 1946 when it came before the House of Lords. I should like to quote the opinion of a gentleman who is well known to my hon. friends of the official opposition. Here is what Viscount Bennett said in regard to the method of making the change, as reported on page 698:

There has been a good deal of discussion about an amendment of the constitution being a political measure. Canada is the only one of the dominions in which a party majority can amend the constitution.

Viscount Bennett was a man of considerable learning in the law, a man of great ability and a well known Conservative. He makes it quite clear that a resolution by a majority in the houses of parliament in Canada can change the constitution. He continues:

They cannot amend it directly, but they do it indirectly, because we have agreed—

That is, the British parliament have agreed.—that we will consent to pass any legislation that they may petition to have passed by this parliament.

I submit that that is as it should be. I can hear the hullabaloo that would be raised in this house if the present government of Great Britain said that they would not pass legislation that was asked for by the houses of parliament of Canada.

That being the case, in this instance we are following the procedure that has been followed by other governments. Evidently, then, the purpose of the amendment moved by the leader of the opposition is to create a new procedure, that in all matters the provinces must be consulted. We should examine the amendment very carefully, then. I think that was done very well this afternoon by the minister of external affairs. The operative part of the amendment, which is really the part we are concerned with, reads as follows:

Now therefore be it resolved, that the government of Canada be required to consult at once the governments of the several provinces and that upon a satisfactory conclusion of such consultations "a humble address be presented to His Majesty in the following words":

The difficulty I find in connection with the amendment is that there is no definition of

[Mr. MacInnis.]

the words "a satisfactory conclusion of such consultations". If the consultations are to be such as will effect what we are going to do, then that in my opinion must mean consent by the provinces. The question that we ask is: How much consent do we need; how much consent will we require; must we have the consent of all the provinces or only of some? The matter of veto was mentioned this afternoon by the Secretary of State for External Affairs, and although I had referred to it when making my notes this morning I shall not refer to it now. But it is indeed important. Let me show how a precedent will be created if the amendment carries. I think it was the member for Macleod (Mr. Hansell) who, when supporting the amendment last night, made it mean so little that he did justice neither to himself nor to the amendment. I should like to quote a part of what he said, to be found on page 533 of *Hansard*, reading as follows:

I call your attention, Mr. Speaker, to the wording of this amendment. The wording of this amendment does not ask that the provinces agree. It does not mention anything about a right or a wrong constitutional interpretation. As I read this amendment, it simply says to the government that we, as a parliament, are asking them to consult the provinces. After they have received the views of the provinces, then we will move an address to His Majesty.

Surely that is an over-simplification of consultation. How does he know that we will move an address after consultation? Suppose all the provinces say, "No, we do not agree." Are we then going to proceed with this address? If we are going to proceed with the address whether the provinces say yes or no, why consult the provinces at all? It is not as simple as the member for Macleod makes it out to be. Either consulting the provinces means something or it does not mean anything. If it means something it may affect what we will do here. If it does not mean anything, if we are going to do the same thing after we have consulted the provinces, regardless of what they say, as we would have done in the first place, then we are merely spoofing the provinces.

**Mr. Garson:** Look at all the fun we would have consulting them.

**Mr. MacInnis:** Yes; but I am not so sure that it would all be fun because most fun has an aftermath.

**An hon. Member:** Are you speaking from experience?

**Mr. MacInnis:** You would be surprised. In this instance, I do not know exactly what we would be consulting the provinces about in the first place, but suppose in any event they were unanimous. In my opinion that would create a precedent, and the next time that we