

Newfoundland

Then Mr. Lapointe said:

I do not agree with my hon. friend in that regard. The other provinces came later into a joint confederation, but they have the same status, powers and rights as the original four provinces and they should be consulted just as much as any other province if any substantial change is asked as regards the British North America Act.

I point out that Mr. Lapointe is not dealing only with the question of jurisdictional powers as between the dominion and the provinces. Then he refers to the views of Sir John Macdonald, Sir George Etienne Cartier, Hon. George Brown and other outstanding members at the time, on the subject of confederation. He also quotes Sir Wilfrid Laurier, at page 299, as follows:

In parliament here we can do as we please; we are in the majority; but are the members of this house prepared to say that if any province finds itself aggrieved by the terms of confederation, which have been accepted by all the provinces, they will ask the British parliament to alter the constitution in the way desired by that particular province? Such a course might be followed by very serious consequences.

He replies to the views of the Minister of National Defence (Mr. Claxton) as to the nature of confederation in these words:

Confederation is a compact, made originally by four provinces, but adhered to by all the nine provinces who have entered it, and I submit to the judgment of this house and to the best consideration of its members, that this compact should not be lightly altered. It should be altered only for adequate cause, and after the provinces themselves have had an opportunity to pass judgment on the same.

Mr. Claxton: May I ask how this is altering any compact?

Mr. Diefenbaker: I did not hear the question.

Mr. Claxton: I asked how our present action would alter any compact.

Mr. Diefenbaker: The arrangement made in section 146 provides for the basis of confederation, in bringing into confederation certain other named areas.

I shall not read the quotation from the remarks of Sir Robert Borden, but he held views similar to Mr. Lapointe's. Finally Mr. Lapointe uses words that I thought were particularly pertinent. He said:

Surely the British North America Act cannot be made a scrap of paper, as that treaty was made at that time.

He was referring to Belgium.

There is a way, perhaps, yes; but the only way is the friendly way, is the legal way, is the constitutional way. It is to approach the various parties to the agreement with a view to arriving at an understanding as to the changes which may be necessary and which may be agreed upon by all the parties to the pact.

[Mr. Diefenbaker.]

Incidentally, Mr. Speaker, I am not entering into a controversy on the question whether confederation was a pact, a treaty, a contract or a statute; but both Sir Wilfrid Laurier and the late Right Hon. Ernest Lapointe used the expression "pact" and "compact". Mr. Lapointe continues as follows:

As I have said, I do not think there could be any other way; I believe that any arbitrary action in the matter would simply defeat its own purpose and would strike at the root of our national unity. I think I cite history correctly when I say that every time there has been a dispute in Canada as regards provincial rights, those who were on the side of provincial rights were victorious in the end.

Mr. Rowe: And will be again.

Mr. Diefenbaker: I remind you, Mr. Speaker, that at the Liberal convention last August it was pointed out how far the present government had departed from a recognition of provincial rights. Then I go on to quote further from Mr. Lapointe:

I do not think there can be any attempt to change the mutual charter of both the dominion and the provinces by the arbitrary action of this parliament. I do not think it is possible to do it.

Mr. Martin: What page is that?

Mr. Diefenbaker: That is page 301, in the first column. To continue:

To those who want changes, and I am willing to admit that there might be the necessity for changes, I would say that the only way to get them is the constitutional way, to ask the consent of the various parties to confederation.

In that statement Mr. Lapointe went even further than did those of his predecessors who had occupied the position of Minister of Justice.

At six o'clock the house took recess.

AFTER RECESS

The house resumed at eight o'clock.

Mr. Diefenbaker: Mr. Speaker, I was referring to the views of outstanding Canadians who at different times were members of the cabinet of the former Prime Minister of this country. I had referred to the views of the late Right Hon. Ernest Lapointe, and I had referred to some of the statements made at that time by Mr. Crerar, now Senator Crerar.

As reported at page 317 of *Hansard* for February 19, 1925, discussing the question of the constitution Mr. Crerar said:

The fact is that Canada has moved forward tremendously in the last fifty years. Those of us who have read history know the circumstances in Canada that brought about the confederation of the then existing provinces. I quite agree with the argument advanced by the Minister of Justice (Mr. Lapointe) yesterday that the confederation pact was in the nature of a treaty. It was the result of different provinces getting together and agreeing upon a solution that would lead them out of their difficulties. But while that was one of the reasons