

*Newfoundland**(Translation):*

Mr. Raymond (Beauharnois-Laprairie): Mr. Chairman, the question of a union between Canada and Newfoundland—the latter coming into confederation as a tenth province—gives rise to a certain number of problems which may be classified under the following headings: constitutional, financial and economic, political, both from the national and international points of view, and all that follows therefrom.

We are therefore about to commit ourselves to a most important undertaking, one that carries with it most serious consequences for the future of this country. For the time being, I will restrict my remarks to the constitutional problems.

The Prime Minister (Mr. St. Laurent) gave, as his authority for the procedure adopted, section 146 of the British North America Act. He does not believe it necessary to obtain the approval of the provinces, being of the opinion that, in cases like this, the members of this house represent the particular provinces from which they come.

Had the act of 1867 not provided for the annexation of Newfoundland, I would maintain that this procedure is altogether unconstitutional since I do not share the opinion expressed by the Prime Minister (Mr. St. Laurent) to the effect that our constitution is merely a law that may be amended or changed according to the fancy of a majority of this house, without the consent of the provinces, the contracting parties to the act.

On the contrary, it is not an act in the ordinary sense of the word; it is, in the words of an eminent member of the Montreal bar and a former bâtonnier, "the outcome of an understanding, of an agreement, of a contract. It is a pact agreed to between the provinces; more than that, it is an agreement between two totally different races and creeds."

The statutes passed by the imperial parliament only served to enact this contract into a law; they ratified it. Proof thereof is found in sections 91, 92, 93 and 133 which are a recognition of the agreement, of the contract entered into, without which recognition Quebec never would have agreed to it. I will never allow that, after having secured our agreement to a contract, the power given by a parliamentary majority be used to amend this contract. That would be a denial of justice.

This truth was recognized by the judicial committee of the Privy Council, in the matter of *The regulation and control of Aeronautics in Canada* (1932 A.C.). Here is what Lord Sankey had to say:

(Text):

Inasmuch as the act embodies a compromise under which the original provinces agreed to federate, it

[Mr. St. Laurent.]

is important to keep in mind that the preservation of the rights of minorities was a condition on which such minorities entered into the confederation, and the foundation upon which the whole structure was subsequently erected. The process of interpretation, as the years go on, ought not to be allowed to dim or to whittle down the provisions of the original contract upon which the federation was founded, nor is it legitimate that any judicial construction of the provisions of sections 91 and 92 should impose a new and different contract upon the federating bodies.

(Translation):

It will be noted that Lord Sankey insists on the word "contract." Now, I agree that section 146 of the British North America Act, to which the four contracting provinces had agreed, grants the power to proceed with the union of Newfoundland, but it does not follow that in the exercise of that power, the constitution could be transgressed in other respects. According to section 146, a very definite method must be followed and a majority of this house has no right to change it without the consent of the provinces which were parties to the act of 1867. Section 146 of the constitution reads as follows:

(Text):

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, Prince Edward Island, and British Columbia, to admit those colonies or provinces, or any of them, into the union . . .

(Translation):

To invoke that section of the constitution, all the conditions mentioned would have to be fulfilled, to wit: addresses from the parliaments of Canada and Newfoundland. This implies the existence of a legislature in Newfoundland, but such a legislature does not exist. The island is governed by a commission appointed by London in 1934. There can therefore be no address from the Newfoundland legislature before it has been restored. One of the main factors to carry out union is missing.

The procedure followed is counter to the constitution. We have not negotiated with the non-existing Newfoundland legislature; we have dealt with the creatures of the imperial commission which had only administrative powers until a responsible government was restored.

The contract agreed to on December 11 last was not between two parties authorized to make such a contract; one of the parties was unauthorized. The adoption of this measure would be not only a breach of the constitution but it would make us share in the breaking of a solemn pledge of Great Britain to Newfoundland, and in a most