

## Newfoundland

**Mr. Claxton:** It has just been done fifteen times.

**Mr. Hackett:** Has the hon. gentleman a question to ask?

**Mr. Claxton:** Yes. I asked if it has not just been done fifteen times.

**Mr. Hackett:** It has been done rather frequently of late, and I will tell hon. members why. It was done in 1946 when there was no reason to do it. I was as anxious as any man sitting in this house to see full justice done to my province, which had suffered in its representation. But to achieve that purpose it was not necessary to enact an amendment to the British North America Act any more than it was necessary here had it not been for the muddle which now exists in relation to this matter.

I would go a little further. The Prime Minister has told the country, if not the house, that it is the intention of the government to devise some means whereby the constitution may be amended. The fact is that there is no statutory method of amending the constitution. The constitution, whether it be called a pact, a contract or an agreement, was the result of men getting together and coming to an understanding; and that understanding must persist until parties thereto consent to its dissolution. Otherwise, those who break it will be guilty of breach of faith. May I summon to the support of this thesis the following authority:

The constitution of a country being once settled upon some compact, tacit or expressed, there is no power existing of force to alter it without breach of the covenant or the consent of all the parties.

That statement is from Edmund Burke; it embodies a principle that is fundamental to the civil law of Quebec as well as to the common law of every other province. It is as old as good faith. A contract is binding upon the parties until they are released therefrom.

Why all these amendments to the constitution? I had been wondering about that matter until the Minister of Justice (Mr. Garson) had the kindness to tell us the answer the other evening, and I refer to his remarks as reported in *Hansard* of February 2. In substance this is what the minister said: The Rowell-Sirois report did not find favour with the provinces; we tried to get it through in 1941 and failed, but we did get it into operation as a result of the war. We all know what has been the effect upon the provinces of the Rowell-Sirois report, for that is name given by the minister to the war agreements between the dominion and the provinces. In good faith the provinces yielded up their taxing powers to the dominion and much of their autonomy for the period of the war; and

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although the war is now nearly four years in the background, the provinces are still deprived of their prerogatives; their rights have not yet been returned. Knowing that the provinces will not consent to the suggestions found in the Rowell-Sirois report—and there is much that is good in it, but there is also a great deal that is not free from criticism—I am wondering whether we are making these continuous amendments to the British North America Act with a view to formulating a tradition that the British North America Act may be amended by a mere parliamentary majority for the purpose of enacting and enforcing the Rowell-Sirois report. If that be true, I would say to hon. gentlemen opposite who come from my province that they would do well to consider carefully how their vote should be cast upon this matter.

There are two matters involved here. One is the admission of Newfoundland. We are all anxious that that island, which stands as a sentinel on our eastern coast, and its hardy, laborious and God-fearing people, should take their place in confederation. The other question involved is the rape of the Canadian constitution. Much as I desire the advent of the Newfoundlanders, greatly as I would welcome them into the house, I hope that it will not be necessary, as a result, to see the constitution damaged and belittled in this popular assembly.

Some hon. gentlemen appear to be under a complete delusion as to what the situation is. This afternoon I listened to agreeable gentlemen who told us what had happened in Newfoundland. The facts are not very complicated. Newfoundland had a debt and the interest used to come due now and then. At a certain time Newfoundland asked Great Britain to take over its liabilities. It was a condition of the surrender of responsible government that Britain assumed the debts of Newfoundland, and set up a form of government which was not representative. Great Britain, by statute, set up what was called a special commission of government comprised of a governor named by Britain and six commissioners named by Britain, three of whom came from the island and three from Great Britain. The statute said that this form of government would be vested with full legislative power and executive authority. It set forth the *modus operandi* and enacted that it would remain in operation until Newfoundland was able to assume its financial burdens again.

The British North America Act provides no statutory method for amendment, and in this other British statute no means was provided whereby Newfoundland might regain its status as a self-governing colony. In the debates of the British House of Commons of December 11, 1945, I find that the Prime