

Newfoundland

when the question of amending the constitution came before parliament in a resolution moved by the then member for York South Mr. W. F. Maclean, some who have sat with my hon. friend in cabinet made certain statements which were diametrically opposed to the view expressed by him, and which in fact fully supported the stand taken by the leader of the opposition (Mr. Drew), that in any amendment to be made to the British North America Act the provisions of that act shall be fully complied with.

In addition there has grown up, not terms comprised within the written constitution, but precedents under which, when important changes are to be made to the constitution, the provinces must be consulted before those amendments in fact are made. My hon. friend asks, were the provinces consulted at the time Manitoba entered confederation? Were the provinces consulted when British Columbia entered confederation? Were the provinces consulted when Saskatchewan and Alberta entered confederation? I do not think they were, for the reason that those provinces entered confederation within the terms of the principles enunciated in the British North America Act.

Just for a moment, in order to bring the argument back from fantasy to fact regarding the nature of this amendment, I am going to read that amendment again:

And whereas it is desirable that the government of Canada should consult with the governments of the several provinces in respect to the said matter:

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":

It is not a question of what the constitution is in Newfoundland. That was made clear in the first speech of my leader, although all desire amity within this confederation. What is at issue here, I repeat, is that the government has endeavoured to get around the constitution, because it believed it could not bring about confederation within the terms of the constitution.

Mr. Claxton: May I ask just one question?

Mr. Diefenbaker: If my hon. friend will just wait, possibly I will answer his question a little later on. At the moment I am going to read section 146 of the British North America Act, though I have never been averse to answering questions at any time. That section reads:

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 parliament of Canada, and from the houses of the respective legislatures of the colonies or provinces of Newfoundland, Prince Edward Island, and British Col-

umbia, to admit those colonies or provinces, or any of them, into the union, and on address from the houses of the parliament of Canada to admit Rupert's Land and the northwestern territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this act . . .

That is the material portion. The government found itself in the position, to use the word of the Prime Minister (Mr. St. Laurent), where "convenience" dictated departure from the terms of confederation. To me, sir, that was an astounding statement. Whenever the terms of confederation appear inconvenient, that would be a justification for making changes in the constitution. Surely, sir, we have not come to the position that, whenever a section of the British North America Act becomes inconvenient if carried into effect, all parliament has to do is, by a majority of parliament, to pass an address whereby the inconvenience is removed, regardless of what may be the result to the constitution.

It was not until the Prime Minister used the word "convenience" that I realized what the government is trying to do. I was not surprised because, sir, no government since confederation has ever committed the number of invasions of provincial rights, whether under the guise of emergency or defence or otherwise, that the present government has made. There is always an excuse for these invasions. Once it was an emergency; the other day it was the demands of defence; today, sir, the new excuse is the balance of convenience.

What does this address say? We have accepted the terms of the agreement; we have accepted the desirability of confederation. But we demand, sir, that parliament shall never deem it proper to amend our constitution indirectly, for convenience or otherwise, without consultation with the provinces.

I shall read the material portions of the resolution.

And whereas the agreement containing terms of union between Canada and Newfoundland set out in the schedule to this act has been duly approved by the parliament of Canada and by the government of Newfoundland;

And whereas Canada has requested and consented to the enactment of an act of the parliament of the United Kingdom to confirm and give effect to the said agreement—

That was as far as we went. We consented to the terms of the agreement. But, at the time we did so, we did not realize nor were we given to understand the method whereby the government intended to circumvent the constitution in order to carry out the terms of union.

Mr. Harris (Grey-Bruce): This was on the order paper.

[Mr. Diefenbaker.]