

B.N.A. Act

tenure of district and county court judges. But having taken that position, we are now faced with a situation which confirms our fears and our concern. The position taken by the minister prior to the passage of the resolution has been repudiated, not only by a decision in the other place but by the very act which the government now accepts.

Surely the government owes the house a much more careful explanation than the minister has so far given us. The minister must now tell us, "I was wrong". The position, he must now agree, is clearly that this parliament has the right to deal with the tenure of county and district court judges. If the minister takes that position we shall respect him for it. But if not, I say that the course taken by the hon. gentleman is not a responsible one.

Hon. J. W. Pickersgill (Bonavista-Twillingate): I wish to rise briefly to reinforce what has been said by my hon. friend from Essex East, and to reinforce it out of the mouth, in part, of the Minister of Justice himself, because it does seem to me that the point raised by the hon. member for Essex East deserves a serious answer.

I say this with all the more conviction because when I made the same argument in the debate on June 14, as had previously been made by the Leader of the Opposition on this point, the argument that this was a reversion to colonialism and that it was totally unnecessary because the jurisdiction of this parliament had never been questioned, my contentions were ridiculed. I pointed out that no question had been raised regarding this jurisdiction by anyone of eminence in this country since county court judges were retired at the age of 75 in 1913; indeed since Sir Charles Fitzpatrick, who later became chief justice of Canada, had asked parliament to provide for the retirement of judges at 80 years of age in 1903; since Mr. Doherty had done the same thing in 1913, changing the age to 75; since Mr. Lapointe in 1926 took the position to which my hon. friend from Essex East referred, in reply to a Conservative member of that day. I said it was an extraordinary thing that the present Minister of Justice or the Prime Minister should suddenly have had a revelation that every government and every parliament up to this day had been wrong and they were right.

When I made that argument following the Leader of the Opposition, who had already made it one June 14, it was ridiculed. I should therefore like to repeat a few of the words

[Mr. Martin (Essex East).]

I used on that occasion. I will not go over most of what I said, but I did use these words:

However, if they feel there is a doubt—

That is the government. I continue:

—I hope they will refer the matter to the courts. Surely it is the height of colonialism—and no other word can be applied to it—to seek to vest in Westminster a jurisdiction which they have never had—which they did not assume in 1867 and of which certainly, once the Statute of Westminster was passed, they divested themselves—and to seek to put into a British statute something no one has ever questioned since 1867 until the minister had this bright idea quite recently, namely the right of this parliament to do something which this parliament has done over and over again and which has been the basis of the tenure of county and district court judges since the year 1913 without any kind of question. It almost passes comprehension why a government should seek to be so abject.

The hon. member for Carleton (Mr. Bell) interjected at this point, "Nonsense". I went on to say:

What purpose they think this is going to serve it is very hard to perceive.

The hon. member for Carleton again interjected:

Argue it on a sensible basis.

The Minister of Justice then interjected:

The hon. member does not know what that means.

Mr. Martineau: Mr. Speaker, would the hon. member permit a question?

Mr. Pickersgill: Certainly.

Mr. Martineau: Can the hon. member not find a better authority than himself to back up his previous affirmations?

Mr. Pearson: Yes; the Minister of Justice.

Mr. Pickersgill: I do not think the minister is a better authority, but I will go on to quote another authority, the Minister of Justice, if the hon. gentleman will just possess his soul in patience for a moment.

Mr. Martineau: This is a sign of progress.

Mr. Pickersgill: The hon. member for Carleton suggested that I should argue the matter on a sensible basis.

Mr. Fulton: What page?

Mr. Pickersgill: Page 4923 of *Hansard* of June 14. I went on to say:

The hon. member for Carleton says "argue this on a sensible basis". If the hon. member for Carleton belongs to the school of thought that wants to vest in Westminster again the control of parts of the constitution of this country that have always since 1867 been vested in this parliament, I do not know what other convenient words could be found for such an attitude than a colonial attitude.

I repeat that. I am glad to say that in another place, where the majority is different from what it is here, that colonial