

Hon. Mr. Euler: It has been discussed several times.

Hon. Mr. Farris: I refer to oleomargarine. It has been said, apparently on behalf of the Progressive Conservative party, that the provision respecting oleomargarine should not have been in the agreement. It is section 46, and it provides that while oleomargarine may lawfully continue to be manufactured in the new province of Newfoundland, it shall not be sold in any other province contrary to the law of Canada. It has been objected that owing to a decision by the Supreme Court of Canada this provision should not be in the bill now, and that its being there will establish a precedent. I admit, honourable senators, that as a result of the Supreme Court's decision the necessity for this provision is not so clear as it was before the decision was given; but I do object to the suggestion that the progress of the negotiations between the two countries should be checked by a modification of this agreement on that ground. And particularly do I object to the suggestion that this provision in the bill will create a precedent. It is now almost thirteen years since I came into the Senate, and I get very tired of hearing it said—not merely by my honourable friends opposite but by departmental officials to whom one has to go on behalf of one's constituents, as well as pretty nearly every minister that one has to consult about questions where there seems to be injustice—"Oh, yes, you have made out a good case, and we admit the injustice; but we cannot possibly do anything about it, because that might create a precedent." I did hope, honourable senators, that if the party of my honourable friends opposite came into office—I never considered the danger very imminent—they would change their viewpoint with regard to the risk of precedents; but apparently that viewpoint is going to stay with us, no matter which party is in power.

Seriously, honourable senators, looking at this section on its merits, I cannot see in it any risk of a precedent. At the time it was inserted it seemed that failure to insert it would be a real obstacle to confederation with Newfoundland. Precedents govern only when similar cases arise, and I cannot see how a provision based upon special circumstances relating exclusively to a country about to become a new province could have any effect on the general law of Canada that there shall be a free exchange of trade between the provinces.

Here is another matter which perhaps technically is a detail that could be considered in committee, but that nevertheless refers to the general principle of the bill. In the remarks

of the honourable leader of the opposition I detected a suggestion that when the resolution is moved in this house a legal question might arise. I take it that he has in mind the constitutional question of whether or not the provinces should be consulted before the request is made to the British parliament to amend the British North America Act. May I suggest to my honourable friend that it seems to me that if that question has any justification or importance, the time to consider it is right now, when we are dealing with the agreement itself. I say that if in the last analysis this matter is shown to be one about which the provinces are entitled to be consulted, they should have been brought into the conference at the very beginning. When I speak of "the provinces" I mean the provinces as distinct from the dominion, for of course both this house and the other house are composed of representatives of all the provinces, and those provinces are all being considered in both houses at the present time.

Some Hon. Senators: Hear, hear.

Hon. Mr. Farris: The suggestion is made that the provinces should be consulted separately as individual units. Well, if there is any logic in that suggestion—and I do not believe there is—they should have been called in on the negotiation of the agreement. If the provinces should have been consulted as a matter of constitutional right, and if objection by any of the provinces would block legislation by the Imperial Parliament, then it seems to me that they should have been considered and brought into the conference from the very commencement. Of course no one seriously suggests that this should have been done.

This criticism is part of a wider campaign that is being carried on in certain provinces concerning the constitutional rights of the provinces. I have heard it suggested that if the Dominion Parliament asserts the right to ask the Imperial Parliament to amend the British North America Act in connection with matters that are purely national in character, a precedent is thereby created and that there is no guarantee that parliament may not go further and ask for amendments to the constitution that affect the rights of individual provinces and minorities. I say, sir, that without any question that is a mischievous doctrine to preach in the Dominion of Canada. It is mischievous for at least two reasons. First, when in the history of the dominion has any government seriously suggested that parliament, or the representatives of each and every province in Canada, would seek to interfere with the rights in language, religion or any other matters pertaining to the minorities? Has it ever been suggested by a responsible party or a group in parliament