

*Redistribution*

(Translation):

The present resolution presents an adroit political plan on the part of the government to deal with the redistribution of seats in the House of Commons as among the provinces.

On the surface it offers the province of Quebec an increase of eight members in the House of Commons.

An hon. MEMBER: An increase of eight Liberal members.

Mr. FLEMING: British Columbia two members and Ontario one member. What a tempting offer! But let us look further. By what means and at what ultimate cost is this gain to be attained? The resolution proposes an amendment of the British North America Act in a very important particular, namely section 51, which has defined the basis of representation of all provinces in the House of Commons. Nevertheless, not one province has been consulted in regard to the amendment. Not one province has been asked to say whether it approves the proposal or not.

Only one month ago the dominion-provincial conference was in session at Ottawa, attended by the Prime Minister of Canada, the Minister of Justice, several other cabinet ministers and the premiers of all the provinces. Nevertheless, not one word was breathed at that conference by the dominion government as to its intention to present this resolution to parliament.

Now the Minister of Justice says that there is no need to consult the provinces. He contends that as long as an amendment of the constitution does not involve matters allocated in the British North America Act to the provincial jurisdiction, such as property and civil rights under section 92 of the act, the provinces have no right to be consulted by parliament. This is dangerous doctrine. Its full significance should be clearly understood. If parliament can bring about an amendment of section 51 of the constitution without consulting the provinces, it can also bring about without consulting the provinces amendments of other sections of the British North America Act. How long will the rights of minorities which are now guaranteed by the constitution be safe if this doctrine, expounded by the Minister of Justice, prevails? It would mean that a narrow majority in parliament could, if it wished, bring about an amendment of section 133 of the British North America Act, and thereby eliminate the use of the French language in parliament—all without consulting the provinces. Let us then be on our guard against creating so dangerous a precedent. The proposed increase in the number of

[Mr. Fleming.]

members of parliament would be gained at too high a cost if it is to be acquired on that basis.

The British North America Act is not an ordinary statute to be amended at the whim of parliament. It is our national constitution; it contains the pact entered into by the old provinces at the time of confederation, binding the dominion and each province; and it is the great charter of the rights of minorities, particularly of those of the French tongue and culture. Let no bold hand be lightly laid on this constitution to overturn its provisions without consultation with the provinces.

The present government has departed far from the views championed by the late Sir Wilfrid Laurier and the late Right Hon. Ernest Lapointe in this chamber.

The Right Hon. Sir Wilfrid Laurier, on January 28, 1907, said in this house, as reported in *Hansard*, page 2199, volume II:

Confederation is a compact, made originally by four provinces, but adhered to by all the nine provinces who have entered it, and I submit to the judgment of this house and to the best consideration of its members, that this compact should not be lightly altered. It should be altered only for adequate cause, and after the provinces themselves have had an opportunity to pass judgment on the same. My hon. friend from York, N.B. (Mr. Crocket) stated in the course of his argument that we have announced in the speech from the throne that we are going to ask parliament to alter the financial terms of confederation. That is very true; but my hon. friend should know that we did not come to that conclusion except after conference with the provinces and after all the provincial governments had united in a prayer for the same.

And, in 1924, the Right Hon. Ernest Lapointe said in this house, as reported on page 520 of *Hansard*:

The British North America Act and the limitations which are imposed upon our powers, if there are such limitations, are made of our own free will. There is no inferiority in that. It is the result of a treaty as my hon. friend from Lotbinière (Mr. Vien) said. It is a treaty between various colonies which entered into an agreement. They fixed what the powers of the central parliament should be, and they also fixed what the powers of the various provinces which succeeded the colonies of that time would be, and this was ratified and accepted by the imperial parliament of the time. Everything we have or have not is because we wanted it so. Now this treaty cannot be changed, it has been the contention of many constitutional authorities, and I think it is only fair that no change should be accepted, without the consent of all those who were parties to it. It is a sacred treaty just as is any other treaty; it is no "scrap of paper."

Mr. MICHAUD: Hear, hear.