

*Redistribution*

provinces, and it is stated that the representation of the provinces shall, after each decennial census, be readjusted on a provincial basis.

I said that we do not sit here as representatives of the provinces, but the number of seats is determined according to provinces. I think for that reason alone the provinces have a direct concern in this matter. In any event, I affirm that the provinces have a concern in this matter, first, because of the provisions of section 51; second, because of the pact which, regardless of legalisms, nevertheless is a political fact, embodied in the British North America Act and, third, because of the effect of what we are doing here to-day creating a precedent.

Another point is that the amendment before us is not one of limited or temporary effect. It is not like the amendment of 1943, which merely postponed redistribution until the conclusion of the war. It is not like the amendment of 1916, which simply had the effect of lengthening the life of the existing parliament. The amendment we are now asked to make is intended to have permanent effect; and so I say it is one in which the provinces are entitled to be consulted.

Just a word about the British North America Act itself. It is not, as one might think after listening to the recent speech by the hon. member for Rosetown-Biggart (Mr. Coldwell), the leader of the C.C.F., a statute like any other ordinary statute. This parliament is not above the British North America Act; it is the creature of that act. All the provincial legislatures, like this parliament, are the creatures of the British North America Act, and we had better be more careful when we are invited to put ourselves above the act from which we derive our existence as a parliament. This, I say, is a fundamental statute.

What do we mean when we talk about parliament? Let us consider that, in relation to the suggestion that, without consulting the provinces, parliament should have the right to seek amendment to the act. The fact is that parliament, so called, acts through a majority; and that can be a narrow majority. If we are content to see amendments brought about simply at the direction of parliament, leaving aside the one exception found in section 92 of the British North America Act, mentioned by the Minister of Justice, then in all other cases it will lie within the power of a very narrow majority in the house to bring about amendments to the act.

Ponder what that means—"a narrow majority." It means that it would be legally possible, on the argument of the Minister of Justice, so long as an amendment does not

[Mr. Fleming.]

affect section 92, to bring about an amendment to the British North America Act by a majority of one in the house.

In the second place, let us remember that a majority in the house does not necessarily mean a majority in the country. It does not mean such at the present time, because this government was not elected by a majority of the people in the country. Under the method referred to by the Minister of Justice an amendment which might be quite unacceptable to the majority of the people, could be made simply because it happened to have the endorsement of a narrow majority in this chamber.

Let us also remember that apparently hasty decisions are made by parliament from time to time. It is not always possible, on the successive readings of a bill, to have time to think the matter over carefully, and to refrain from hasty and unwise decisions, decisions taken out of caprice or whim. A resolution on the other hand, may be passed rapidly and be on its way to Westminster before the country understands its full significance. Let us bear in mind that the Westminster parliament is not going to take the responsibility of sitting down and hearing representations from the parliament of Canada, and contrary representations from the provincial governments. That was made clear by the parliament at Westminster in 1943, when the government of Quebec made representations to Westminster urging that an amendment sought by this parliament should not be passed. On that occasion the parliament at Westminster was not prepared to take the responsibility of listening to the province, when the amendment had been sought by parliament.

That is a reason we should move slowly in parliament. That is a reason for making very sure that the rights of the provinces are fully safeguarded before any request goes forward from Canada to Westminster for an amendment to the British North America Act. As we were informed by the Minister of Justice, it took just ten days in 1943 from the time the resolution was passed in this chamber until the amendment to the British North America Act was made. Let us not be parties to hasty decisions which will result in rapid amendments to the British North America Act.

I suggest that if ever there was a time which has proven to be more dangerous than any other to embark on amendments to that act, without first fully safeguarding the rights of the provinces, it is this particular time.

There has been in session in this country since last August a dominion-provincial conference, which has been discussing financial agreements. Apparently not one word was breathed by the dominion government to that