

discussed. It was pointed out that under that decision the privy council had held that the language of the fourth rule of section 51, which contains the following words:

. . . at the then last preceding readjustment of the number of members for the province—

—does not require a change in the number of members for a province, but that when, after a census, the number of members for a province was compared with the result of the census it amounted to a readjustment of the representation. That was said in a case in which the attorney general of Prince Edward Island was contending that there could not be any reduction in membership for a province until there had been some increase. He was contending that until there had been some increase there had been no readjustment. Their lordships held that that contention could not be admitted and they said this:

Their lordships think this is to give too narrow a meaning to the words.

In their opinion, when as a result of a census the representation of the provinces is reconsidered and the necessary changes, if any, made to bring it into harmony with the results of the census, that is a readjustment within the meaning of subsection 4 whether there be or be not any change in the case of any particular province.

Mr. MacNICOL: May I ask the minister if this house has not on one or more occasions passed legislation to the effect that no province shall have its membership reduced below the number of senators allowed to such province by the constitution? Because of that Prince Edward Island was allowed to retain four members to conform to the four senators; New Brunswick, which ordinarily would have lost membership in this house, was not to be reduced below ten the number of senators that come from that province, and similarly Nova Scotia was not to have fewer members than senators.

Mr. ST. LAURENT: The hon. member is quite right. That was provided for by an amendment to the British North America Act which was made in 1915. There was a special provision enacted that year that in no case was the number of representatives for the people of a province in the House of Commons to be fewer than the representatives that that province is entitled to have in the senate. That, of course, had to be done by a statute of the parliament of Westminster, because it was a modification of the British North America Act. It is because the statute of Westminster of 1931 was, at the request of the provinces, declared to be inapplicable to the amendment of the British North America Act that it was necessary in 1943 to have the

parliament of the United Kingdom say that this parliament would not be required to proceed with redistribution during the war.

If there were to be any other change in the application of section 51, as it exists and as it has been construed, it would require legislation of the parliament of the United Kingdom to give it effect.

But to proceed with the argument I was trying to develop when the hon. member suggested his question, this language used by the privy council has been applied to the whole of rule 4 of section 51. Rule 4 provides that the representation of a province will not be reduced after a census unless its proportion of population compared with the population of the whole of Canada has diminished by as much as five per cent.

Mr. KNOWLES: Five per cent of the previous proportion?

Mr. ST. LAURENT: Five per cent of the previous proportion.

Mr. KNOWLES: It is pretty complicated.

Mr. ST. LAURENT: Yes, it is quite complicated; but the part of the rule which has brought about the situation described by the hon. member for Provencher (Mr. Jutras) is due to the construction put upon its terms by the privy council in 1905. It means that although there may be an accumulated difference of more than five per cent of the proportion, but if it does not occur in one decade it is ineffective. If it happened to be four per cent for five successive decades, amounting in all to as much as twenty per cent, it would still be inoperative because no five per cent of it would have taken place within a single decade.

The application of the rule has worked in the manner which has been described. When I spoke on the resolution in 1943 I cited the cases of Manitoba, Saskatchewan, Ontario and Quebec. There is one that I did not mention at that time. According to the returns of the last census, the population of British Columbia is 817,861; that of Alberta is 796,169. As a result of the application of this rule, in the next parliament, if no change is made in the rule, Alberta will have seventeen representatives and British Columbia, sixteen, although British Columbia has, according to the census of 1941, a larger population than Alberta by some twenty thousand. As has been already pointed out, on a strictly proportionate basis the number of representatives for several provinces would not be the same as if the redistribution proceeded upon the basis on which it will have to proceed if no constitutional change is made.