

*British North America Act*

constitution. And when the present government sat in opposition it made its views clearly known in the historic debate which took place during the fall session of 1949, with regard to a government proposal to amend the British North America Act in order to allow the federal government to amend the constitution on matters which were held to be of a purely federal nature.

In fact, on October 17, 1949, the then leader of the opposition, Mr. Drew, immediately proposed the following amendment on behalf of the official opposition, as is recorded in page 841 of *Hansard* of that date:

That the said proposed resolution be amended by striking out all the words after the first word "that" and substituting therefor the following:

"That His Excellency the Governor General in Council be requested to convoke as soon as may be possible a constitutional convention of representatives of the dominion and provincial governments to devise a method of amending within Canada the constitution of Canada, and of safeguarding minority rights; so that such method may become the subject later of an humble address, when adopted, to His Majesty the King praying an amendment of the British North America Act, 1867, accordingly."

Furthermore, the now Minister of Finance (Mr. Fleming) stated also, during the same debate:

We are confronted here with the fundamental issue of respect for the Canadian constitution. On that issue we of the official opposition take an inflexible position that there is no right in this government or in this parliament to proceed to legislate now for the purpose of amending section 51 of the British North America Act without consultation with the provinces. So far as that kind of consultation is concerned, we say that in the light of history it is abundantly clear that we would not have had a united Canada and would not have had confederation had there not been some basis of agreement on the part of the initiating parties inscribed in the Quebec resolutions and later in the British North America Act. This is the basis upon which Canada came into being, and notwithstanding all the sophistry that has been uttered in the house on the subject of the great powers of the central government I say to you, sir, that we ignore and do violence both to the letter and the spirit of confederation by seeking, in the manner proposed by the government—

—of the time, which was the Liberal government—

—in the present bill and on other occasions, to ride roughshod over the British North America Act.

Mr. Speaker, I wish to remind hon. members of the wise statements of Sir Wilfrid Laurier and the Right Hon. Ernest Lapointe about the British North America Act. Sir Wilfrid Laurier, for instance, made in this house, in 1907, a speech that has remained famous.

Confederation is a compact, made originally by four provinces but adhered to by all the nine prov-

inces who have entered it and I submit that this compact should not be lightly altered. It should be altered only for adequate cause, and after the provinces themselves have had opportunity to pass judgment on the same.

I should think this is clear enough. May I also quote the words of the Hon. Ernest Lapointe, in a speech he delivered in the House of Commons in 1924:

The British North America Act and the limitations which are imposed upon our powers, if there are any 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 Lotbiniere (Mr. Vien) has pointed out.

And further:

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".

(Text):

**Mr. Winch:** May we have a copy of the speech now being read?

**Mr. Chambers:** He is not reading; he is quoting.

**Mr. Ricard:** The hon. member would not know the difference.

(Translation):

**Mr. Pigeon:** Mr. Speaker, I am quoting words of former members of the House of Commons.

Allow me to quote the late Hon. Ernest Lapointe who, in 1925, said in this house:

Surely, the British North America Act cannot be made a scrap of paper, as the neutrality treaty was made at that time. There is a way, perhaps, yes; but the only way is the friendly way, is the legal way, is the constitutional way. It is to approach the various parties to the agreement with a view to arriving at an understanding as to the changes which may be necessary and which may be agreed upon by all the parties to the pact. As I have said, I do not think there could be any other way; I believe that any arbitrary action in the matter would simply defeat its own purpose and would strike at the root of our national unity. I think I cite history correctly when I say that every time there has been a dispute in Canada as regards provincial rights, those who were on the side of provincial rights were victorious in the end.

I do not think there can be any attempt to change the mutual charter of both the dominion and the provinces by the arbitrary action of this parliament. I do not think it is possible to do it. To those who want changes, and I am willing to admit that there might be the necessity for changes, I would say that the one way to get them is the constitutional way, to ask the consent of the various parties to confederation.

Well, Mr. Speaker, if the members of the C.C.F. party wish to amend the Canadian constitution, I must say that I agree with the late Mr. Ernest Lapointe. Let the contracting parties, that is the provinces, be consulted