

the legislative set-up which was created at that time was entirely new. It is true that New Brunswick and Nova Scotia had separate parliaments; but they disappeared, and a new parliament was created with new powers as formulated in section 92 and other provisions of the British North America Act. Although in large measure the old machinery was used, politically there was a new creation. I think that consideration is basic to the whole conception of the status of these provincial legislatures in relation to the new creature then set up, the Parliament of Canada as a whole, with a government here at Ottawa. The electors were given the right to elect members to the various parliaments—provincial and federal—to represent them in their respective capacities. These words "respective capacities" should be underlined. I can find no justification, either in the confederation records or in the practice since adopted, for the statement that in federal matters anyone has any jurisdiction but members of the federal parliament. It is unreasonable on its face to say that in matters relating exclusively to the provincial constitutions the provinces shall have full powers of amendment, and at the same time to argue that as to similar matters of a federal nature the federal representatives of the people, comprising the Senate and the House of Commons, shall have no right to seek a measure to give them full powers within their own jurisdiction.

So much for the compact or treaty theory. I have not exhausted it, and if I attempted to do so I would only exhaust honourable senators who, in the last analysis, would form their own opinions.

The next objection that has been tossed around—and it is difficult for me to treat it with quite the same respect as I did the last one—is the idea that it is a piecemeal amendment; that the constitution has been torn down the middle and that the picture is hanging lopsided. I honestly believe that these objections will be forgotten sooner than those who uttered them.

In yesterday's edition of the *Montreal Gazette*, a newspaper I read every morning I am in Ottawa, there appeared two items on the British North America Act, one a letter and the other an editorial. The letter is the most nonsensical thing I have ever read. It was placed on the editorial page next to an editorial criticizing the St. Laurent Government. To the casual reader, including myself, the inference would be that this letter had the blessing of the editor. The letter refers in part to section 7 (1) of the Statute of Westminster and quotes as follows:

Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1933, or any order, rule or regulation made thereunder.

The writer states that this passage expressly forbids any amendment to the British North America Act, but that is not so. The amazing point is that the learned author—at least he seems to be learned, because he cites cases and makes quotations almost as freely as though he were learned—

Hon. Mr. Howard: He must be a lawyer.

Hon. Mr. Farris: I do not know, but he quotes from Mr. W. F. O'Connor, K.C., former Parliamentary Counsel to this chamber. While some of us did not always agree with Mr. O'Connor, I would say to honourable senators, and particularly to my friend from Queen's-Lunenburg (Hon. Mr. Kinley), that I always held Mr. O'Connor in the highest esteem. Anyway, the writer of the letter refers to page 23 of annex 5 of Mr. O'Connor's report to the Senate, 1939, which is a statement having nothing in the world to do with the matter in question. At the same time he entirely omits the next paragraph, which completely covers the question and makes clear that the Statute of Westminster has nothing to do with this matter of amendment. Yet we find this letter appearing in the *Gazette* at a time when I am sure that newspaper is earnestly pleading for co-operation.

Honourable senators, the next criticism is that one is not playing the game if one does not deal with the constitution as a whole. It is argued that the provinces must be consulted about all the amendments, whether or not they are federal or provincial. This view has considerable support, and although I recognize it, I think it is quite wrong. Take my own province of British Columbia—I do not own it altogether, but I live there—

Some Hon. Senators: Oh, oh.

Hon. Mr. Farris: I choose British Columbia because it is far removed from the heated controversies that are being waged in Ottawa. The province of British Columbia does not itself send representatives to the federal parliament. The people who live in the federal constituencies of British Columbia are not citizens of that province within the statute, but are citizens of Canada. These people, regardless of any provincial boundaries, elect at the polls the federal members whom they wish to represent them in federal matters at Ottawa. Likewise, when British Columbia vacancies in the Senate are filled, the government appoints representatives from British Columbia on a federal basis and not from a provincial aspect.

As a distinct political unit under confederation, British Columbia, like the other provinces, has its own legislature and is assigned certain defined powers. It is not given any power to send representatives to Ottawa or to concern itself with any matters outside its