

*B.N.A. Act—Mr. Bennett*

would be wrong to use that formula as a ground for transferring a tax universally recognized as belonging to one class to a different class of taxation.

That is the judgment of the judicial committee in 1933.

Mr. MACKENZIE (Vancouver): What is the reference?

Mr. BENNETT: 1928 Appeal Cases, pages 117, 124, 125, quoted with approval in the judgment of Lord Thankerton in Attorney General for British Columbia and Kingcome Navigation Company Limited, reported in Appeal Cases, 1934, to which reference was made this afternoon. That exhausts all I desire to say with respect to the foundation of my observations.

Now I ask this question, Mr. Speaker: Having regard to the complex character of the financial relations between the dominion and the provinces; having regard to the acute distinction that was made by the framers of the constitution as to the powers to be exercised by the legislatures on the one hand and by parliament on the other, and having regard to the fact that only direct taxation was to be imposed by the provincial legislatures while any form of taxation was within the competence of this parliament, is it right or meet that this amendment should be made in the form in which we are now proceeding?

In the United States, if they were endeavouring to make this amendment to their constitution—and of course the powers of the states and of the federal authority are entirely different from what they are in Canada—the matter would first of all have to be dealt with by congress and then by each of the states until the adequate majority provided by the constitution was available. If in Australia they desired to deal with the matters that are being dealt with in this resolution they would have to proceed to amend their constitution in accordance with the provisions of their constitutional act, and seek the opinion of the people themselves with respect to both the amendment of the federal power and the amendment of the powers exercised by the states. That was done, as a matter of fact, in consequence of a condition which arose in Australia when in conference between the heads of states and the federal power it became clear that it was desirable to bring about very much the same condition as is being brought about by the resolution now before this house. But I shall point out presently, and I think show conclusively, that there is no necessity at all for this amendment with respect to the exercise of some of the powers which we are endeavouring to

[Mr. Bennett.]

exercise. If we were seeking to make this amendment in South Africa, we would again, if the constitution were to be altered, have recourse to the various safeguards provided for that purpose.

An ordinary amendment to our constitution is not a matter of tremendous importance. An act to validate certain acts that were done when a province was created, as was Manitoba, an act such as that for which we sought authority in this house before 1930—all these are simple matters, but when you come to change the essential foundation of our whole financial system I submit that it should not be lightly done. It should not be done without there being at least some evidence of which one can say: Here is the evidence of the provinces having acted, or here is the evidence of the province requiring it, in the form of a resolution passed by the legislature of the province seeking the exercise of the powers sought in this resolution.

I will admit that that is not a tremendously important objection, but it is important when we come to deal with the fundamentals of the amending of a constitution in a matter of such transcendent importance as the financial power entrusted by the constitution to the legislatures, on the one hand, and to parliament, on the other. In this instance, if I seek to-day to ascertain whether or not the provinces have agreed, I can look in Hansard and all I can find is that some premier sent a telegram or some evidence of a meeting between gentlemen representing the federal government and gentlemen representing one of the provincial governments. Surely that is not the method which should be provided when one comes to deal with a matter so important as the altering by amendment of the whole financial system under which this federation came into being. That is my first submission with respect to this matter; that is the reason why I took the trouble to read these extracts in order that it might be apparent to even the lay members of the house that this distribution of power was not lightly made; that it represented the views as to how best the financial structure of the provinces could be maintained and within what limits they should exercise their taxing power, while on the other hand according to the federal parliament the power to tax by every means within the authority of a taxing power, namely, by either direct or indirect taxation.

Proceeding in the light of these observations, I desire now to direct attention to the first proposed amendment. This is an amendment to our constitution which will confer