

trary representation they have now, they will get their true representation, they will have the exact number of members to which they are really entitled. Now to that extent it is a departure from what has been done under the British North America Act. But it is a method of ascertaining the true conditions so as not to allow this arbitrary representation to continue until the next decennial census, which would be the case if we adopted the principle of the British North America Act. It seems to me there is nothing improper in doing it, there is nothing unconstitutional. We are dealing with a real difficulty, and we are dealing with it in a way to give to the new provinces what they are really entitled to in the way of representation.

Mr. R. L. BORDEN. I am not criticising the policy, I think it is the most convenient way of dealing with it if we have the power. My criticism relates solely to the question of constitutional power. I do not know whether I can make it any plainer by putting it in another way.

Mr. FITZPATRICK. I understand my hon. friend, he thinks it is settled by section 51 and that we cannot depart from it.

Mr. R. L. BORDEN. I mean that when you bring these provinces into the confederation you can establish what representation they shall have. That applies to those areas already existing as autonomous provinces; it applies also to territories, although those territories may have had representation in parliament before they were admitted to the dignity of provinces. I fully concede also that when territories having representation enter the confederation you may provide that the representation which they possessed as territories shall be continued as their representation as provinces, although the constituencies may cross the boundary line. I am not disposed to dispute that much. But it seems to me that when you have once done that, you have exhausted your power of readjusting that representation except by virtue of the terms of section 51 of the British North America Act. That is the difficulty that presents itself to me. I also think, and in fact the Minister of Justice has conceded, that in so far as this particular provision is concerned, we are going outside the terms of section 51, because we are providing for a readjustment upon a quinquennial census and not upon a decennial census.

Mr. FITZPATRICK. I concede that this clause stretches to the utmost limit the accuracy of my theory with respect to our right to give the province a constitution. This goes to the extreme limit in this respect, that so far as the provinces are concerned we clothe them with such powers as we think proper, but we are now going beyond that, because we are dealing with the province in its relation to other provinces, and

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that is where the difficulty is in connection with this matter, that in creating this new province we are creating a condition with respect to its representation that may prove to be more favourable to that province than the conditions which prevail in the other provinces. A redistribution takes place upon the unit of representation based upon the population of Quebec as ascertained at the last decennial census. Now, notwithstanding that the population of Quebec will have increased in the interval, we will take that unit of representation ascertained at the last decennial census and apply it to the representation of this new province, and in that respect it will have a distinct advantage, because the unit will be smaller than it would be if there were a census taken in Quebec now. I admit that we are stretching to the utmost limit the application of the principle I contended for in connection with the organization of these provinces.

Mr. MONK. As I understood the Minister of Justice, at first I did not see that there was authority for this representation in the Manitoba Act.

Mr. FITZPATRICK. I think I was wrong. The provision of the Manitoba Act which has reference to this matter is section 4. The Manitoba Act provides for the representation of the province by giving it four members when it came in, and provided for a readjustment of the representation under the British North America Act. But there was no provision for a quinquennial census.

Mr. MONK. I understand upon what my hon. friend bases his view. I do not know that it is stretching our powers so far as they have been stretched in other cases. What I understand my hon. friend to say is that we are proceeding under section 2 of the British North America Act, 1871, which allows us to fix at present the representation of the new provinces in the House of Commons. But, as we do not know exactly what the population is, this law provides for a census which is to take place next year, and we, under our powers derived from section 2, declare that their representation shall remain what it is until that moment, now not remote, when we shall know what the population is. Then the representation will be fixed definitely under section 51 of the British North America Act. I can understand the position, but still it does not completely remove the objection that we are bound to fix that representation now, and if we leave it to be decided in a year or so there will have to be a new redistribution for these two provinces and the proportion between the representation of the province of Quebec and the representation of the other provinces will not be touched at that time. In other words, in 1906 there will be a redistribution in so far as these two provinces alone are concerned, having in view the representation of the province of Quebec, but the relation between the province