

British North America Act

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Amendment as to legislation respecting old age pensions. 30 & 31 Vict., c. 3; 9 Eliz. II, c. 2.

1. Section ninety four A of the British North America Act, 1867 is hereby repealed and the following substituted therefor:

Legislation respecting old age pensions and supplementary benefits.

"94A. The parliament of Canada may make laws in relation to old age pensions and supplementary benefits, including survivors' and disability benefits irrespective of age, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter."

Short title and citation.

2. This act may be cited as the British North America Act, 1964, and the British North America Acts, 1867 to 1960, and this act may be cited together as the British North America Acts, 1867 to 1964.

Mr. Knowles: Mr. Speaker, when this debate was interrupted at five o'clock I was in the midst of making a suggestion as to a course of action that might save us from this ironical situation of having to send an address to Westminster every time we want an amendment to our constitution. Just at that point the hon. member for Lisgar (Mr. Muir) had asked me a question and I was prepared to answer but for the fact that some hon. members called it five o'clock. My hon. friend's question related to the fact that the British North America Act is the constitution, fundamentally, not only for Canada as a federal state but for our various provinces.

I believe I state my friend's question correctly when I say he asked me if I did not think the provinces should be consulted with respect to any basis upon which we would try to repatriate our constitution. I want to answer that question. May I do so, unless my hon. friend puts a further question to me, by stating what I think we should do.

The fact is, Mr. Speaker, that every time we require an amendment to our constitution we go through the same rhetoric that we have had in this house today. We say it is ironical; we say it is inappropriate, that it is out of date, but there is nothing else for us to do. We put off until some later time the actual repatriation of our constitution. I think it is fair to say that the repatriating of our constitution breaks into two parts. First of all, there is the question of getting it over here into Canada. Second, there is the question of reforming it, changing it to make it closer to what we might want. I think our difficulty is that we cannot do these two things at one

[Mr. Deputy Speaker.]

and the same time because we cannot agree on a formula for amending the constitution, or the other changes we might want to make in it. Therefore we put off the first step of bringing it here to Canada.

My suggestion therefore is—and as I said this afternoon I took the idea from something attributed to Mr. J. B. McGeachy—that we should take the first step right away, that is we should bring to Canada our constitution exactly as it is now. We should not, in this first process, seek to make any changes in it at all. We should just bring it to Canada in its present form. I suggest that the way to do that is for us, in the parliament of Canada, to pass an act, which would have royal assent before it would be law, declaring the present British North America Act and all its amending acts to be statutes of the parliament of Canada.

At that point the hon. member for Lisgar put to me the question, should not the provinces be consulted before such a step is taken? I say, readily, the answer is yes.

Mr. Muir (Lisgar): I wonder if I might ask the hon. gentleman a supplementary question at this point?

Mr. Knowles: Certainly; go ahead.

Mr. Muir (Lisgar): Is it not a fact that the agreement of the provinces for the repatriation of our constitution has not been forthcoming in the past?

Mr. Knowles: Yes, that is true, because every time in the past we have tried to get provincial agreement to the repatriation of the constitution we have had, at the same time, a proposal for amending it. I think the provinces might agree to bringing the constitution to Canada, even though they would not agree to some particular change that is being proposed. I am trying to suggest a means of repatriation to which I think the provinces, after some consultation, would agree.

Let me outline briefly the situation as it now exists. When we want to get an amendment to the constitution, we think it is difficult. Actually, I do not suppose anywhere in the world the constitution of a state the size of ours can be amended with as little legislative process as is the case for Canada. What do we do? We pass a resolution in this House of Commons and we ask the members of the other house to pass the same resolution. In both cases, it is a one stage debate. It is not a bill with first, second and third readings or any committee of the whole stage. It is