

British North America Act

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. Deputy Speaker: Shortly before government business was suspended last evening for royal assent proceedings, when the house was considering a motion by the right hon. Prime Minister for the presentation of an address requesting a constitutional amendment, the hon. member for Villeneuve moved in amendment thereto the following:

I move, seconded by the hon. member for Roberval (Mr. Gauthier), that the following words be added to section 94A after the words "to any such matter": "but this amendment to the British North America Act does apply only to those provinces who will ask for it".

A number of hon. members were considerable, enough to offer their views on the legality of the amendment. As I pointed out last night, many of the arguments put forward either in support of or in opposition to the amendment touched on the constitutional aspect of the matter rather than on the very limited procedural aspect that must be of concern to the Chair in accepting or rejecting the motion.

The hon. member for Lapointe made a very interesting contribution to the discussion. He argued that this amendment proposed by the hon. member for Villeneuve is constitutional. He said in particular, as reported at page 4671 of the French edition of *Hansard*:

[*Translation*]

I say that the subamendment is constitutional and that it completes the other one because it bears no relation to the legislation which the government proposes to introduce this year concerning old age pensions.

It is a complementary amendment because it is connected with the future legislation that the federal government will wish to move as regards the Old Age Pensions Act; it will also permit the government to legislate on the supplementary benefits, including survivors and disability benefits, irrespective of age.

And further on:

Mr. Speaker, I believe that to save a principle is far more important than all the arguments put forward by representatives of the four other parties. We must save the principle that, in such fields, in provincial fields, the federal government should never be able to take action without

the consent or the agreement of the provinces, more particularly of the province of Quebec.

For those reasons, Mr. Speaker, I believe you should declare the amendment in order.

The suggestion that the amendment is constitutionally acceptable or that it deserves the support of the house as to its principle, does not, I think, mean that it is necessarily acceptable as far as standing orders are concerned.

An amendment is out of order from the procedural standpoint if it contradicts the main motion it is intended to amend. In the remarks he made last night, the Minister of Justice (Mr. Favreau) said:

—I submit that the amendment is entirely out of order, because it is contrary to the very nature of the subject matter and also because it would render meaningless the aim and object of the resolution now under consideration.

The hon. member for Berthier-Maskinongé-Delanaudière (Mr. Paul), the hon. member for Sherbrooke (Mr. Chapdelaine) and the hon. member for Winnipeg North Centre (Mr. Knowles) were of the same opinion.

[*Text*]

May I refer particularly to the opinion expressed by the hon. member for Winnipeg North Centre, who said in part, as reported at page 4479 of *Hansard*, when speaking to this amendment:

It is not relevant in that it says that it does not apply to the provinces. Section 94A does not apply to the provinces either. This is an amendment giving the federal parliament power; and when an hon. member comes along with an amendment which says that it does not apply to the provinces unless that is asked for, our problem is that it does not seem to make any sense in English or in French.

I should like to refer hon. members to citation 203(1) of the fourth edition of *Beauchesne*, page 171, which reads as follows:

Every amendment proposed to be made either to a question or to a proposed amendment should be so framed that if agreed to by the house the question or amendment as amended would be intelligible and consistent with itself.

I also refer hon. members to citation 202, paragraph 12, which reads as follows:

An amendment proposing a direct negative, though it may be covered up by verbiage—

I might say I am not too enthusiastic about the word "verbiage". It seems to have a rather strong connotation which I would not like to apply to the amendment proposed by the hon. member.

—is out of order.

Then, paragraph 15 reads as follows:

An amendment approving part of a motion and disapproving the remainder is out of order. On the