

British North America Act

The resolution reads as follows:

—but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter.

I understand the point of view of the hon. member for Villeneuve, but I believe his amendment comes too late. Such amendment should have been moved before the requests were made to the provinces, to obtain from them unanimous consent, and to apply to London afterwards. At that time, there might have been some use for this amendment whose object is to have only the provinces wishing to use it so authorized.

In the circumstances, it is too late because all provinces have already given their consent. We know, moreover, that to amend the constitution or depart from it, each time, whatever the motive, however small the change may be, it is necessary to apply to London. We have proof of this in this motion, since we have already obtained an amendment to the constitution to pay pensions to the aged. If the law could have been extended or somewhat enlarged, we might have included in it the benefits or payment of pensions to widows. But, the usage is so rigid that I do not believe—besides, circumstances are there to prove it—that we can, without prior agreement of all the provinces, obtain an amendment to the constitution on any point, however minute it may be.

In the circumstances, this amendment, I believe, adds nothing to the actual resolution, since the provinces have already given their consent and with regard to the case with which we are dealing, the provinces could not withdraw their consent, since they have already given it, and in order to apply to London to amend the constitution, such a consent was required.

Mr. Grégoire: Mr. Speaker, I would like to say a few words with regard to this amendment and its constitutionality or lack of it.

First of all, let us start from the beginning. The British North America Act, passed in 1867, gave certain powers to the federal government and to the provinces.

Now, under this act the provincial governments had exclusive power to legislate on old age pensions and on what is mentioned here as—

—survivors' and disability benefits irrespective of age.

And now, on the occasion of the presentation of a specific piece of legislation on old age pensions, the federal government, without the

[Mr. Chapdelaine.]

consent of all provinces, but of the majority of them, wants to pass a pension scheme directed to the majority of provinces.

Then, in order to amend the constitution, the agreement of all provinces is necessary. All provinces have given their consent, but some of them want to continue to be masters in that field.

I agree that the legislation indicates clearly that:

—it shall not affect the operation of any law, present or future, of a provincial legislature in relation to any such matter.

Mr. Speaker, if it becomes more complex, it is because of the amendment to the constitution: the federal government is requesting privileges acquired through the constitution, through the British North America Act, in fields already reserved to the provinces, in order to legislate in a very specific and very precise field, that is to bring in a new act concerning old age pensions.

When the federal government wishes to amend the legislation it may bring in this year or next year, then, a new legislation will become unavoidable. But this new legislation, without affecting any act to be presented by the government of the province of Quebec, may not suit the province of Quebec or another province, but the amendment to the constitution, as proposed now, will nevertheless authorize the federal government to bring forward an amendment or a new piece of legislation to amend the act concerning old age pensions without having to consult a province. The government will have the authority to do it.

It was mentioned a while ago,—I think it was by the hon. member for Sherbrooke (Mr. Chapdelaine) or the hon. member for Berthier-Maskinongé-Delanaudière (Mr. Paul)—that if the ten provinces have accepted the amendment to the constitution that is proposed today and, consequently, gave one more responsibility to the federal government, it is only because of the new old age pension plan that the federal government intends to set up. But every time the federal government will wish to bring an amendment to its legislation, it will require the passing of a new act. Then, the provinces will have no say in the matter; the federal government will hide behind the amendment we are voting today and the parliament of Canada will have authority to legislate on old age pensions.

The hon. member for Sherbrooke mentioned that it should not affect the operation