

America Act amended so as to make it quite clear that it will be within the jurisdiction of this parliament to administer an old age pension act. . . .

That, Mr. Chairman, was in 1931. The Prime Minister had before him at that time, when he made this statement, or his law officers had at any rate, the opinion that was to-day produced by the Minister of Justice, and the very fact that he made the statements he did in 1935 indicates that the interpretation he then gave to the opinion that had been given in 1930 was different from the interpretation that he puts thereon now. I was quite surprised that the Prime Minister should talk about smoke-screens, and that this constitutional issue was raised as a smoke-screen. Let me tell you, Mr. Chairman, that unless the government submits this matter to the courts so that there can be a full determination of the question of legislative competence long before July 1, 1945, we on this side of the house need have no fear in asserting that this legislation is a smoke-screen designed to secure support while at the same time realizing that it is not within the constitutional powers of this parliament. If it is constitutional, why not submit it to the supreme court and have its judgment thereon? The act does not have to be delayed in operation and the carrying into effect of this legislation need not be retarded. Let me quote again what the Prime Minister said a little later on. After asking the then Prime Minister, Mr. Bennett, to submit certain social legislation to the courts, he said on February 12, 1935, as reported at page 754:

May I say to the Prime Minister that he knows better than anyone else that the final authority that settles these questions of jurisdiction is the courts, and that he cannot by assertion or by assumption give to this parliament any power to deal with these matters which it does not now possess. That is the reason, and the sole reason, why hon. members on this side bring to the attention of the government, as is their duty—

I point out these words, Mr. Chairman. The Prime Minister indicated the other day when we raised the constitutional issue at this time that it was for the purpose of a smoke-screen. In 1935 he said it was the duty of the opposition to do so.

—and why as leader of the opposition as is my duty I stress the point, that we believe, proceeding as he is, he has adopted a course which will not commend itself to the courts when this legislation comes eventually before them for final decision.

I can do no better than to quote the concluding remarks of the Prime Minister, when after asking the government of the day

to submit the legislation to the courts he used words that are as applicable to-day as they were then. In 1935 the then minister of justice, Mr. Guthrie, an outstanding lawyer, was as outspoken in his support of the constitutionality of the measures then before parliament as is the Minister of Justice to-day. The minister of justice of that time advanced as many arguments in support of the constitutionality of the measures that were then before parliament as have been advanced by the present Minister of Justice. Regardless of the opinion of the Minister of Justice or any other hon. member, the Prime Minister averred that those opinions are meaningless, as the final determination must be the courts. Then he used these words—and how applicable they are to-day in view of the fact that we intend to have a general election between now and the time this legislation is to be brought into effect. These are the words as used by the Prime Minister at page 754 of *Hansard* of February 12, 1935:

In the circumstances, I say to the Prime Minister that in these days of stress and anxiety and suffering for the mass of the people, they are crying for bread and he is giving them a stone.

We do not want, Mr. Chairman, to have the people believe that social legislation within the powers of parliament is to be brought in, only to find out after the election is over that it is beyond the powers of parliament. Why not submit the legislation now? It will not take long. Somebody spoke about two years. Our courts are not overworked. The supreme court can be convened at almost any time, certainly long before July 1, 1945, and can render a decision before that time.

The Prime Minister, the then leader of the opposition, went on to use these words:

They—

That is, the people.

—are crying for fish and he is giving them a serpent; because in addition to their distress and their suffering, when this legislation is found to be ultra vires there will be the sting of bitter disappointment.

These words, sir, are as applicable to-day as they were then—indeed more applicable, for that scheme meant the distribution of a very small amount of money. This scheme means the distribution of \$250,000,000, more than fifty per cent of the total amount of all the civilian expenditures of this nation prior to the outbreak of the war.

Is it the proper course to submit this matter to the courts? The supreme court act provides for that. I am not going to quote the section 55, but in 1935 the Prime Minister, who was then leader of the opposition, quoted the section and pointed out that it was meant to