

"In each province the legislature may make laws in relation to old age pensions within the province; and it is hereby declared that the parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the parliament of Canada in relation to old age pensions shall affect the operation of any law in relation to old age pensions made by a provincial legislature."

A possible criticism of this new draft might be that by stating that in each province the legislatures may make laws in relation to old age pensions within the province, the draft implies incorrectly that the provincial legislatures do not have this power at the present time. It may be argued that since there has been no suggestion in any of our negotiations that the provinces' power to pass such legislation should in any way be questioned, this provision is unnecessary since the provinces already have this power. However, even if unnecessary, it should not have any harmful implications, because it is along the same lines as section 95 with respect to agriculture in the provinces. No one could doubt that the provinces' powers to pass laws in relation to property and civil rights would have included (in the absence of section 95) the power to legislate with regard to agriculture. This provincial power was specifically mentioned in section 95 to make sure that it would not be excluded by giving jurisdiction to parliament in relation to agriculture in all or any of the provinces. Under section 95 the laws of parliament relating to agriculture were to have overriding effect. In the present old age pension amendment we wish it to be clear that the jurisdiction of the legislatures is not excluded by giving jurisdiction to parliament, and we wish it also to be clear that the laws of parliament will not affect the operation of the provincial laws. This new draft, therefore, is submitted to meet the objections raised by the governments of Ontario, Nova Scotia and Alberta.

If objection be taken to this second draft on the ground that it incorrectly implied that the provinces do not have the power to make laws in relation to old age pensions within the province, then perhaps a third draft might be considered, reading as follows:

"It is hereby declared that the parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the parliament of Canada in relation to old age pensions shall affect the operation of any law in relation to old age pensions within any province made by the provincial legislature of such province."

With regard to Premier McNair's suggestion that the provincial sales tax authorized should be raised from three per cent to four per cent, I regret to say that after consultation with my colleagues, our original view remains unchanged that the federal government cannot agree to an increase in this rate.

The suggestion made by Premier Campbell that the federal parliament should have exclusive jurisdiction over the whole field of old age pensions is concurred in neither by a number of other provincial governments nor by the federal government.

Premier Campbell's suggestion that the powers of indirect taxation should be applied to such things as electrical power, or services provided by laundries, theatres, hotels, restaurants, barber shops and the like has been carefully considered. It is our view that the provinces which are imposing power and amusement taxes of this sort at the present time under their existing powers of direct taxation are not experiencing sufficient difficulty to warrant this suggested change. Moreover, inasmuch as the sales tax amendment is meeting considerable opposition from taxpaying groups, we think that it would be unwise to complicate matters further by attempting to grant new taxing powers to the provinces which could be used to impose indirect provincial taxes over the whole field of service industries, and, as it would seem, of professional services.

Premier Campbell also makes the point that "... since the proposed amendment, in prohibiting discrimination between sales of goods local to the province and those from outside the province, makes no specific mention of goods manufactured partially outside and partially inside the province, it might be possible to evade the prohibition by discriminating either against or in favour of goods partially manufactured within and partially without the province. Your government may desire to provide against any such possibility."

In relation to this point, our feeling here is that while theoretically such a case might arise, we doubt if any provincial government would think it practicable to encourage provincial production by this type of discrimination.

While this is for the provinces to decide, our feeling is that for the purpose of this tax a commodity could perhaps be regarded by the provinces as manufactured in that province in which the last stage or stages in production took place. However, if there is a general feeling amongst the provinces that this point raised by Premier Campbell presents a problem which might cause serious embarrassment, we are quite prepared to consider putting into the amendment whatever may be agreed upon as an appropriate method of preventing this type of discrimination.

We would be glad to have your views in reply to this letter as promptly as possible. We shall give prompt attention to the replies which we receive from all of the provincial governments in reply to this letter; and if it appears that a further attempt to co-ordinate your views which we are now seeking should be made in another draft of this constitutional amendment, we shall produce another draft. If, however, it seems impossible to reconcile some of the views expressed by the provinces and our own views, I shall endeavour to achieve such reconciliation with the disagreeing provincial premiers by long-distance telephone; and if this proves impossible, it may be necessary for us to get together again as a group to consider these matters and to continue our efforts to reach a general agreement concerning them.

Yours very truly,

Stuart Garson

Enclosures.