

British North America Act

because there is not in this country of Canada that oneness, that determination of Canadians whatever their province, to join together as one nation to make this a great nation. No nation can achieve greatness when there are divisions within it which deny the right of the parliament of one's country to deal with one's own constitution.

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, we regret that there have been so many delays in connection with the proposed Canada pension plan. However, we are hopeful that this third start may be more successful than the other two turned out to be. There have been a number of references this week to history. Perhaps I might see a hopeful omen in the fact that we are making this third start on the 56th anniversary of the day that the first legislation in this country respecting pensions was dealt with in the House of Commons of Canada. It was on June 18, 1908, a day that I have a personal reason for recalling, that the Government Annuities Act was given its second reading and put through committee of the whole. Perhaps on this occasion a third start to the Canada pension plan on June 18, 1964, will be a little more successful.

Since there have been these delays, Mr. Speaker, we are also glad that the point has now been reached where we are facing the necessity of obtaining an amendment to the constitution. I should like to look at this question of obtaining an amendment to the constitution a little more objectively than, in my opinion, the previous speaker did. The fact is that prior to 1951 there were no references in the constitution to old age pensions, and therefore such old age pension legislation as we had was ours because it did not involve any direct tax or direct contribution for old age pensions. In other words, the original old age pensions act of 1926 was possible without any special authority in the British North America Act.

But when in 1951 it was proposed, as a result of the work of the committee on old age security to which the Leader of the Opposition (Mr. Diefenbaker) referred, to bring in an old age security act, it was the opinion of the law officers that we had to obtain an amendment to the constitution. Why? Not because there was anything essentially different in the pensions that pensioners would receive—even the removal of the means test was not a constitutional problem—but because special taxes were going to be collected, taxes that were earmarked

[Mr. Diefenbaker.]

for the specific purpose of pensions. Therefore we had to obtain the amendment to the British North America Act that is contained in section 94A.

But we have reached the stage in our amending of the constitution of Canada where we seem to feel we have to get unanimity among the provinces and the federal government, so each time we get an amendment we get just the amendment that we need to fit the piece of legislation that is in mind at the time. In 1951 all we were seeking to do was to provide a pension that was partially contributory in the sense that special taxes would be collected. But it was only an old age pension. It was payable only at age 70 so far as the Old Age Security Act was concerned, and so section 94A was written just to meet that particular situation.

It strikes me that the first and second versions of the Canada pension plan, the one that was first presented to us on July 18 last year and the one that was presented to us on March 17 this year, were in order under the constitution as the constitution stands, because those versions of the Canada pension plan did not go into the field of survivors' or disability benefits, did not provide for payments for anyone who was to be entitled to those payments on any basis other than age. The provision for widows in the first and second versions included the requirement that such widows be of a certain age, at least 65. So I think it is quite clear that as versions Nos. 1 and 2 of the Canada pension plan stood, no further amendment to the British North America Act was necessary.

The reason we now require one, the reason that the former government felt that it required an amendment to the British North America Act, was that the new plan, as indeed the legislation envisaged by the former government, goes beyond old age, goes into the field of benefits for people who are not old in age but who would qualify for those benefits because of being left as orphans or dependants or widows, or as persons who are disabled. The reason, therefore, that we require today an amendment to the British North America Act is that versions Nos. 1 and 2 of the Canada pension plan, as a result of negotiations with the provinces, have been enlarged upon. We are moving into a broader field and that is the reason we need an amendment today. We are glad that the negotiations with the provinces have resulted in this decision to move into these other fields and therefore we welcome the step that is now