

Office of  
The Prime Minister and President of the Council  
Ontario

Toronto, Ontario, January 24, 1951

The Hon. Stuart S. Garson, K.C.,  
Minister of Justice,  
Ottawa, Ontario

Dear Mr. Garson:

Thank you for your letter of the 2nd instant with reference to constitutional amendments and enclosing draft amendments.

Concerning the amendment relating to old age pensions, the amendment you propose is as follows:

"(2) Notwithstanding anything in this act, the parliament of Canada may make laws in relation to old age pensions."

I have no hesitation in saying that this government is in favour of an amendment giving power to the federal parliament to deal with the matter of old age pensions. We regard this as very important and urgent and hope that there will be no delay in the enactment of an amendment. We are in hopes that it will be possible to have this matter settled so that necessary legislation can be brought forward at the coming session of parliament. We shall stand ready to implement our portion of the arrangement, and we are hopeful that it will be possible to deal with this matter at the coming session of the legislature, which convenes on February 1. Our legislation, of course, must necessarily follow yours. Therefore, the early action of parliament in this matter would be most helpful to us.

In commenting on the amendment which you have submitted, I have the following comments which come after a consultation with the attorney general.

You suggest that this amendment be added as subsection (2), section 95. The heading of section 95 is "Agriculture and Immigration," which might make it inappropriate to have this placed in this section. We suggest that it might be better to provide a new section, possibly to be called 95(a).

At the present time it is, I believe, conceded that legislation in relation to old age pensions is within the exclusive power of provincial legislatures under "Property and Civil Rights in the Province." As I understand the matter, it is now proposed that the federal government should be given jurisdiction concurrent with the provinces in relation to old age pensions. It is apparent that the provinces will need such jurisdiction in the proposed arrangements, as they will participate in pensions between sixty-five and sixty-nine inclusive, and probably in other ways. If the amendment is passed in its present form might it not subtract from the field of property and civil rights and place the power to deal with old age pensions exclusively within the jurisdiction of the parliament of Canada? That I do not think is intended. The jurisdiction is to be concurrent.

I therefore advance the suggestion that the best solution would be to follow the principle contained in section 95 which authorizes legislation by both legislatures and parliament in relation to agriculture and immigration. If this principle were adopted as to old age pensions, the section might appear somewhat as follows:

"In each province the legislature may make laws in respect to old age pensions and it is hereby declared that the parliament of Canada may from time to time make laws in relation to old age pensions in all or any of the provinces, but no law passed by the parliament of Canada

in relation to this subject shall affect the operation of any law in respect to old age pensions passed by a provincial legislature."

You might give consideration to the above matter. May I repeat that in principle we are in agreement. It is only the form of the amendment with which we are now concerned. The present proposal is that the federal government shall make universal pensions to persons seventy and over, but it is quite understood that the federal and provincial governments will remain in partnership in connection with pensions below that age, and perhaps in other matters relating to pensions. Therefore I think that the amendment should be clear that the jurisdiction is concurrent.

Very sincerely yours,

Leslie M. Frost

Canadian National Telegraphs

January 24 AM 11:12

Charlottetown, P.E.I., 23 1202P

Hon. Stuart Garson, K.C., Minister of Justice,  
Ottawa

Your letter January twentieth. Government Prince Edward Island concurs in proposal to add words indicated to the draft amendment.

J. Walter Jones  
Premier

The Premier

The Government of the Province of New Brunswick

Fredericton, January 25, 1951

Hon. Stuart Garson, K.C.,  
Minister of Justice and  
Attorney General of Canada,  
Ottawa, Canada

Dear Mr. Garson:

I received your letter of January 20 regarding the proposed amendment to the British North America Act to permit provincial governments to impose an indirect sales tax.

The further proposal submitted by you will be studied in its relation to the original proposal forwarded in your letter of January 2.

I hope to be able to submit our views on this and the other amendment at an early date.

Yours sincerely,

John B. McNair

Premier's Office  
Prince Edward Island

January 25, 1951

Hon. Stuart Garson, K.C.,  
Minister of Justice,  
Ottawa, Ontario

Dear Mr. Garson:

Yesterday I wired you as follows: "Your letter January twentieth. Government Prince Edward Island concurs in proposal to add words indicated to the draft amendment."