

APPENDIX

BRITISH NORTH AMERICA ACT—SUGGESTED AMENDMENTS—
CORRESPONDENCE WITH PROVINCES

Office of the Premier

Alberta

Edmonton, January 26, 1951

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

Dear Mr. Garson:

I am in receipt of your letter of the 2nd instant enclosing proposed amendments to the British North America Act respecting old age pensions and a provincial sales tax. I have also received your further letter of the 20th instant.

With reference to the amendment to section 95, it is suggested that the words "or the legislature of any province" be added after the words "the parliament of Canada" where they occur in line 2 of subsection 2 of section 95 of the proposed amendment.

You will recall that the Prime Minister indicated that there would be concurrent legislation with respect to old age pensions and therefore the amendment should not be placed in section 91 of the British North America Act. In view of the wording of subsection 1 of section 95, and in order that there should be no question but that the legislatures of the provinces will have concurrent jurisdiction and will be enabled to enact legislation dealing with the age group of sixty-five to seventy and possibly to supplement the dominion old age pension at seventy, it seems to me that it is necessary to incorporate these words in the proposed amendment; otherwise the courts might construe the section as giving exclusive jurisdiction to the dominion, which I am sure you will agree was not intended.

The amendment to head 2 of section 92 as submitted appears to incorporate the agreement made at the Ottawa conference, and I have no objection to the addition of the words "and not so as to discriminate between sellers or classes of sellers of the same class of goods" as proposed in your letter of the 20th instant.

Yours very truly,

Ernest Manning
Premier

Office of the Premier

Province of Manitoba

Winnipeg, January 31, 1951

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

Dear Mr. Garson:

Your letter of January 3 enclosing drafts of two constitutional amendments to deal with old age pensions and retail sales tax, together with your letter of January 20 suggesting certain additional words to be inserted in the draft with regard to sales tax, have received careful attention in cabinet council. I am therefore writing to inform you of the conclusions which we have reached.

Your suggestion is that the question of old age pensions should be dealt with by adding a new subsection to section 95 of the B.N.A. Act. You will recall that during the discussion of this subject at the conference I made the proposal that old age pensions should be dealt with as a new subsection of section 91. We would like to repeat that suggestion now.

Under the proposal which is now before us, the federal government will be assuming complete responsibility for pensions to persons aged seventy and over and fifty per cent of the cost of pensions to persons aged sixty-five to sixty-nine inclusive. The result will be that the total cost to the federal treasury will be somewhat of the magnitude of \$356 million while the total cost to all ten provinces will be approximately \$32 million. In other words, the federal government has indicated its willingness to assume more than 90 per cent of the financial costs of old age pension schemes. Under these circumstances it seems to us fundamentally unsound that we should continue ten separate provincial administrative organizations in the field of old age pensions, each one of them overlapping with the federal jurisdiction and each one of them requiring constant exchange of information and constant co-ordination of information and administrative practices. On the grounds of eliminating unnecessary duplication of administrative machinery and of avoiding frequent misunderstandings between different governments, it is our view that one central uniform administrative machinery should be created to deal with the question of old age pensions. For this reason we would strongly urge that the proposed amendment with respect to old age pensions should simply be the addition of a new subsection in section 91 which would read "old age pensions."

If, however, this proposal does not find favour with your government and with the governments of the other provinces, we are prepared to support an amendment which will authorize the federal government to deal with old age pensions while continuing the authority of the provinces to do likewise. We feel, however, that there may be certain confusions created if the proposed amendment is made a subsection of section 95. At the present time section 95 follows a heading which reads "Agriculture and Immigration." It will obviously be somewhat misleading to carry under that heading a subsection dealing with old age pensions, and it may therefore be necessary to amend the heading also or to set up the proposed amendment as a separate section rather than as a subsection of section 95.

We understand that pensions for the blind are to be brought under the same arrangements as are proposed for persons seventy years of age and over. We therefore submit that the constitutional amendment in connection with old age pensions should have added to it the following: "and to pensions for the blind."

We have also given consideration to the proposed amendment to section 92, head 2, which would change that head so as to read as follows:

"2. The raising of revenue for provincial purposes by

(a) direct taxation within the province, and