

acter, will realize that where you rely solely and entirely upon experiments you have nothing but political action, following political action and what was intended to be a great benefit has in many instances been a positive disadvantage to the very class it was intended to benefit.

Holding that view myself, I think it is very important that this whole question of jurisdiction should be cleared up in a manner which can give cause for no occasion either of doubt or debate. For that reason I want to ask the Prime Minister if he has obtained from the law officers of the crown an opinion different from any that has been given in the past, or if he has obtained an opinion from the supreme court in these matters. I say the law officers of the crown because at the time when the old age pensions matter was before parliament we had an opinion from them in the matter. It was an opinion given to the committee which was considering the bill, and it is an opinion which has governed parliament ever since in matters of social reform. It will be found in the votes and proceedings of June 16, 1925, and from it I will quote just this one paragraph:

In view of the position taken by several of the provinces and more particularly by Saskatchewan, Alberta and British Columbia, and having in mind what the British North America Act, under sections 91 and 92 defines, your committee resolved to obtain an authoritative opinion from the Department of Justice in respect of the points thus raised, and on the twenty-third of May last, the Deputy Minister of Justice replied as follows:—

“Referring to your letter of the twelfth instant, asking to be advised with regard to the authority of parliament to legislate on the subject of old age pensions, I may say that this subject does not fall specifically within any of the enumerated subjects given to the dominion under section 91 of the British North America Act, but does in my judgment fall within the subject “Property and Civil Rights in the Province” committed to the provinces under section 92. I am of opinion, therefore, that the subject matter of pensions has been entrusted to the provincial legislatures rather than to parliament. I do not mean to suggest that parliament has not the power to legislate upon the subject so as to assist the provinces or to establish an independent voluntary scheme, provided that in either case the legislation does not trench upon the subject matter of property and civil rights in the province, as for example by obligating any province or person to contribute to the scheme.

The enactment of such legislation would, however, involve the assumption by the dominion of obligations involving heavy expenditures with regard to a matter which does not fall specifically within the dominion field of legislation.”

Until we get that opinion authoritatively reversed it seems to me we will be at sixes and sevens discussing what may or may not be possible under the legislation that is being introduced.

May I point this out to the Prime Minister and the government? It has evidently been seen by previous parliaments that questions of this kind would arise. The wisdom of not inviting debate on the subject on the floor of parliament in any acrimonious fashion and of avoiding steps which might create dissension between the provinces and the federal government, has been recognized in the Supreme Court Act. I would ask the Prime Minister whether he has obtained, under the provision of this statute, any opinion from the supreme court. If he has not obtained an opinion, may I suggest to him now, before we begin a discussion of this matter, that in order to ensure all the expedition possible in the light of certainty, he ask the supreme court to give him an opinion with respect to the question of jurisdiction in any of these social matters that may be introduced, and to oblige parliament by giving that opinion in the shortest order possible. The provision to which I refer is section 55 of the Supreme Court Act, chapter 35, revised statutes, 1927, which reads as follows:

55. Important questions of law or fact touching—

(a) the interpretation of the British North America acts, or

(b) the constitutionality or interpretation of any dominion or provincial legislation; or

(d) the powers of the parliament of Canada, or of the legislatures of the provinces, or of the respective governments thereof, whether or not the particular power in question has been or is proposed to be exercised;

may be referred by the governor in council to the supreme court for hearing and consideration; and any question touching any of the matters aforesaid, so referred by the governor in council, shall be conclusively deemed to be an important question.

(2) When any such references is made to the court it shall be the duty of the court to hear and consider it, and to answer each question so referred; and the court shall certify to the governor in council, for his information, its opinion upon each such question, with the reasons for each such answer; and such opinion shall be pronounced in like manner as in the case of a judgment upon an appeal to the court; and any judge who differs from the opinion of the majority shall in like manner certify his opinion and his reasons.

(6) The opinion of the court upon any such reference, although advisory only, shall, for all purposes of appeal to His Majesty in council, be treated as a final judgment of the said court between parties.

If that step has been taken, I think we shall be on sure ground. If it has not, I think it is the obvious duty of the government to take it at once. I wish to make it clear that not only have some Liberal provincial governments been questioning the right of the federal government to interfere with provincial rights, but Conservative provincial