

*Canada Pension Plan*

all if a government has a majority in parliament and wants to make a change just before an election.

I was interested in the comments made on this clause in the special joint committee by the assistant deputy minister of justice. As a matter of fact, I enjoyed all the way through the sittings of the committee the excellent explanations of the clauses of the bill made by Mr. Thorson and I agreed with him 99 per cent of the time. I think he made the best defence of this clause that is possible but even he did not persuade me that it should be in the bill. He made it clear in the record for December 11, 1964, at page 448, that it would be perfectly possible for any succeeding session of parliament or for any succeeding parliament to pass a statute that would say: Notwithstanding the provisions of such and such a clause, the act is amended.

Are we not doing something silly to put into a statute of parliament something that sounds constitutional but which does not have that effect at all? I know this, that if any private member of the House of Commons brought in a private member's public bill that had a provision like this in it he would be laughed out of the house. He would be told he had never been near a law school, that he did not know the basic facts of the parliamentary process. I suggest that this kind of legislation just does not belong in an annual statute of parliament. After all, that is what we have before us at the present time, not a constitutional enactment.

I agree with the minister that there are certain things that have not been done in the 97 or 98 years of Canada's history, that there are certain things that the governments and parliaments of Canada just would not do, but I think the knowledge that these things will not be done is worth far more than this kind of constitutional provision bootlegged into an ordinary statute. I think we would be far better not to have this kind of provision in this statute at all. I do not mind agreements being made by the federal government with a province as to what that government will do because that government then has to take its responsibility. Maybe it could be done under some sort of federal-provincial agreement that could be brought before parliament. But to write into a statute that it cannot be amended without the consent of two thirds of the provinces representing two thirds of the people is, I suggest, anticipating all of the arguments that we yet have to go into regarding the constitution of this country.

[Mr. Knowles.]

As I say, I was interested in the excellent defence that Mr. Thorson made of this clause on December 11, 1964, as found on page 448 of the committee proceedings, but I was also interested later in the sessions of the committee to get what seems to me to be the reason for this. It was on the 1st of February, 1965, that we had before us a delegation representing the government of Ontario and in addition to the oral representations that were made a number of documents were tabled. One of the documents was a statement made on January 21st in the Ontario legislature by Mr. Robarts. His statement appears in full in our minutes and on page 1786 I find this paragraph by Mr. Robarts:

Of greatest importance to the people of Ontario, we requested safeguards in order to prevent unilateral changes in the provisions of the act, particularly in regard to benefits and contributions.

I have no quarrel with Mr. Robarts or any other provincial premier seeking the kind of understanding from the federal government that would make for that kind of protection, but he then went on to say:

As a result of our request—

In other words, Mr. Robarts takes full credit for clause 115.

—a section was inserted in the act which, in effect, provides for consultation with the provinces before any future changes may be made in the plan. As the plan now stands, no amendment of substance can be made until after a notice period of at least two years has elapsed, and such changes can be effected only if assent is given by two thirds of the participating provinces with two thirds of the population of the participating provinces.

Now, please note this sentence, and these are the words of Mr. Robarts:

In effect this gives the people of Ontario, through their government, a clear right to be consulted in the future and to decide upon the implications and desirability of any change that may be proposed. It provides an effective veto over changes of substance with which we may not agree.

Now, that was Mr. Robarts speaking, telling us that this clause gives him a veto over this parliament. The same position is accorded to any other provincial premier or any other provincial government, provided he can get enough so that there are not two thirds who agree. It seems that we in the parliament of Canada, which has certain rights and certain responsibilities under the British North America Act, are being asked tonight to agree to a clause under which we give to the provinces the right to veto any further amendments that we might wish to make here in the parliament of Canada. I say that this, in