

us preserve that great heritage, that great boon, the integrity of the Canadian bench.

Mr. KNOWLES: There are two matters which I should like to call to the attention of the Minister of Justice in the hope that he may act on them. First, I should like to raise again the question of a retirement age for judges of the superior courts of the various provinces. As I understand it, there is a fixed retirement age for judges of our federal courts—the Supreme Court of Canada and the exchequer court—and there is also a fixed retirement age for judges of district and county courts. But in between those two groups there is this middle bracket, if I may call it that, of superior court judges, designated by various names in different provinces, for which there is no fixed retirement age. Some of them do retire, but many go on to quite advanced ages. I would be the first one to recognize that in men of advanced years one frequently finds both physical and mental vigour the equal of some much younger, but as a general rule, I think, we would all agree that it would be better for the administration of justice and better all round if the principle of a fixed retirement age applied to all the courts of our land.

When this question was raised before, the minister commented favourably on the principle which I am advocating. On occasions I have introduced a bill to try to achieve the principle in what is admittedly an indirect manner, by providing that the salaries of judges at a prescribed age shall become what their pensions would be, thus encouraging retirement. I admit that when I introduced that bill I recognized that it was an indirect way of going about it. I would have preferred that it be done directly, but not being in a position to introduce such a measure I introduced the bill to try to focus attention on the matter and get discussion on it as well.

Two years ago, in April 1944, both the former member for Saskatoon, Mr. Bence, and I spoke on this matter and received from the Minister of Justice a favourable reply. His words, as recorded in *Hansard* for April 21, 1944, at page 2248, read in part as follows:

Hon. L. S. St. Laurent (Minister of Justice): Mr. Speaker, I think in about two minutes I can give the assurance that hon. members have sought, that at the very first opportunity the matter of an amendment to the British North America Act to deal with the provision which now gives judges of the provincial superior courts a life tenure in their office will be considered. This is in my opinion a matter which should not be presented for amendment to the imperial parliament without previous discussion with the provinces, because the administration of justice and the establishment of the courts

[Mr. Hackett.]

are matters that are within provincial jurisdiction. It is my view that the proper procedure with respect to amendments to the British North America Act when dealing with any portion that gives jurisdiction to provincial legislatures should involve prior conference and consultation with the legislatures, and if it is sought to take away from them something which has been allotted to them, their consent should be obtained.

I will not read the record further. I will simply say that it goes on to report an argument over that last point. But what I would like to ask the minister now is whether it is still his view that this is a matter for an amendment of the British North America Act, in the way he indicated at that time, after our experience which culminated in the vote last night on redistribution. The other question I would like to ask him, in the light of the other things he said on that occasion, which I have not taken the time to read to the committee, is whether the matter was presented at the recent sittings of the dominion-provincial conference, and in general, where we stand on this whole question of fixing a retirement age for judges.

About two years ago I secured from the Department of Justice a return showing the names and dates of birth of all the judges in superior courts of Canada. The return revealed that at that time there were 29 judges between the ages of 70 and 75 still sitting on the bench in the superior courts, and 11 over the age of 75. I have not asked the department to bring that return up to date, so I wish to make it clear that in what I am going to say now there is an element of surmise, because I do not know how many of these men have since retired or have passed on. But if all these men—and I emphasize the if—were still on the bench there would now be 23 between the ages of 70 and 75, and 26 over the age of 75 and on up into the eighties. That figure will of course have to be corrected in the light of retirements or deaths that have taken place in the meantime. I know the minister agrees with our contention that something should be done about this matter, and I shall appreciate it if he will indicate how it now stands.

The other question upon which I would ask the minister to comment is one which I admit at once is ticklish in this parliament, and I want to be quite fair about it and avoid any embarrassment to the minister, because not only do I respect him personally but I respect his religious faith. I refer to the question of divorce bills coming before parliament. As the minister knows, every time a batch of these bills comes through there is a feeling on the part of many of us, to say the least, that it is not quite the dignified way of dealing