

received from both our houses—the government will meet with the provinces to see how far they can go by understanding and agreement to complete the program. The date set for the commencement of the proposed meeting is the 10th of January next. I wish to emphasize, although I know it is not necessary to do so in this house, that the important part of the program lies in the future. I can answer the question asked by my honourable friend from Toronto-Trinity (Hon. Mr. Roebuck) by saying that when you come to examine the resolution you find that in reality the principle that it establishes is wide and important, but the actual effect of the resolution by itself is comparatively limited. Indeed, I think that anyone who has not already looked into it will be surprised to discover how really limited it is.

May I say a word here as to my understanding of the reasoning advanced by the government and particularly by the Prime Minister? And first let me remark, honourable senators, that from any personal knowledge of the Prime Minister, from my observation over many years of his activities as a lawyer and of his conduct as Prime Minister, I regard him as not only a great constitutional lawyer, but as a great constitutional lawyer with a vision.

Some Hon. Senators: Hear, hear.

Hon. Mr. Farris: As I follow the reasoning of the government, and particularly that of the Prime Minister, they are thinking of the division of our constitution into three parts. I should like us to think about it along the same line. First, there is that part of the constitution which is exclusively provincial in character. Secondly, there is that part of the constitution which is exclusively federal, not only in its jurisdiction but in its application and its effect. I particularly emphasize the word "effect." And thirdly there is the field, which is the big field, comprising the middle ground where jurisdictions overlap, so that it is impossible to touch one without touching the other.

Honourable senators, especially those who are lawyers—though lately we have heard so much about the constitution that we all are familiar with it—know that the two outstanding sections in that big field are section 91, the amendment of which we are now seeking, and its counterpart, section 92. Section 91 enumerates powers given to the federal parliament, and section 92 enumerates powers given to the provinces. You cannot touch a single power specified in section 91 without interfering with one specified in section 92, and *vice versa*. So sections 91 and 92, and to a lesser degree some other sections, which I shall mention later, are not within

this resolution. It is important for honourable members to keep that in mind. They come within the third classification, which will be dealt with at dominion-provincial conferences later on.

Let me briefly refer to each of these three divisions or parts of the constitution. The first relates to the powers already vested in the provinces. Honourable senators will recall that in the last few weeks there has been a good deal of talk about lop-sided amendments to the constitution, ragged amendments torn down the middle, so that one almost gets the idea that the constitution is like a tattered picture hanging crookedly on the wall. Why? Because the present proposal is to deal with matters relating strictly to the federal part of the constitution. But I submit to honourable senators that if there is anything in the suggestion that the constitution is being torn into shreds and patches, that enormous offence was first committed at the time of confederation. I say that because section 92 of the British North America Act reads as follows:

In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say,—

1. The amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.

This cock-eyed idea, this lop-sided operation, had its inception in the first clause of Section 92 of the British North America Act, which relates to the provinces. I wish to call the attention of honourable senators to some of the things which the provinces have been able to do in the way of amending their own constitutions ever since the day when the Confederation Act became law. For instance, section 68 states where the seat of government for each province shall be. Under section 92 (1) the provinces, from the very start, have had the power to change the seat of government. Even in Ontario the seat could be moved from Toronto.

Hon. Mr. Beaubien: A terrible thing.

Hon. Mr. Farris: We next look at section 70 of the British North America Act, which reads:

The Legislative Assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the first schedule to this Act.

The province of Ontario has many times changed that provision, and it will make further changes. Under the power given it by the British North America Act the government of that province, if it were in session now, could change the provisions as to the number of representatives to be sent to the legislature, how many members should represent the city of Toronto and how many the