or willing to carry on, perhaps even before they reach the age of 75, without trespassing upon our solemnly and freely undertaken contractual obligations—and I use that term "contractual" not in a legalistic sense but rather in a moral context of our duty and obligation as custodians of the good faith of the Canadian people unto those who have agreed to serve them as superior court judges? I believe that there will be more voluntary retirements than we may think—for each judge, as he reaches age 75, will not only act with judicious wisdom as he considers this wish of the Canadian Parliament, but he will indeed be subjected to signifiant moral and psychological pressures on behalf of retirement, through voluntary choice and responsible volition.

The problem of our procedural tactics in this house bothers me too, and I feel impelled to ask this question: Why did the Leader of the Government in the Senate (Hon. Mr. Aseltine) not proceed much earlier with this address, which has been sitting on our Order Paper for how many months? For you see, the timetabling followed has placed the Senate face to face with what one might call a *fait accompli* because the address passed by the House of Commons is now presented to us as a kind of intergovernmental treaty, which presumably we must either accept as is or not accept at all.

Let us assume that we are not faced with a *fait accompli* and that the members of this honourable house, having assessed the procedural issues at stake, wish to make amendments which they consider beneficial. Now suppose these amendments are accepted in this house, then we could face an anomalous parliamentary situation. Failing House of Commons agreement to our amendments, we would then have two addresses and not a joint address. Suppose that each house sent forward its own version of the address! You will remember that the honourable Leader of the Opposition (Hon. Mr. Macdonald) stressed that the resolution before us is our own; it is separate, and it is independent.

I have a strong feeling that the timetabling of this resolution in this house has placed us in an invidious dilemma, a procedural dilemma which may be characterized by the trite phrase "Heads I win; tails you lose!" I do not know why this should be so, and I protest most vigorously.

Now, if we do not accept the resolution for reasons which are at least worthy for serious consideration, we shall be accused of voting down an acceptable substantive proposal providing for the retirement of superior court judges at age 75. "And what is wrong with that," we shall be asked, "especially since nine provincial Governments and one provincial Parliament have agreed?"

So I want to repeat, this desirable end does not justify inadequate or unacceptable means.

Furthermore, what have the ten provinces specifically agreed to? I am asking this question because I sincerely believe that the argumentation concerning the "residual doubt" about the present retirement provisions for district and county court judges is akin to the proverbial splitting of hairs, and in this context I have every right to split a few hairs of my own, and this I shall do.

Please note that the letter of the honourable the Minister of Justice to the ten provinces asks for and gets approval of only one substantive change, to amend section 99 of the Constitution to provide for the compulsory retirement of provincial judges at age 75. That is all. It said nothing overtly about making this retirement legislation retrospective or retroactive in nature, although one could argue, perhaps, that this could be inferred from or implied into this correspondence. This intergovernmental correspondence certainly said nothing about providing for the impeachment of county and district court judges by way of an address of both Houses of Parliament, which constitutional addition is being made in the address we are now considering.

Reading the provincial replies, I can claim, with justification, that there was provincial concurrence to the retirement-at-age-75 proposal, but there was no specific discussion of nor was there concurrence in the changes this house is being asked to approve in the proposed new section 99 (1) of the British North America Act, in respect to the impeachment of district and county court judges, nor with respect to retroactivity, and on this point I am in substantive agreement with the honourable senator from Vancouver South (Hon. Mr. Farris).

When this resolution was moved in the very first instance it was inferred that this legislation was exactly on a par with the legislation which was introduced in 1927 and which amended the Supreme Court Act. Now, since Parliament passed subsequent legislation to amend and to correct the retroactive and breach-of-contract features of the 1927 legislation, the present legislation which is to result in legislative action by the British Parliament is not on a par: first, because it involves action by another Parliament; and secondly, because its retroactive features mean that we are being asked to abrogate what can be interpreted as a contractual obligation between the people of Canada and the superior court judges who are now holding office under a patent whose meaning is very clear.