

thing to do with it, any more than the federal parliament has to do with the power of a legislature to determine the number of members required to constitute its assembly. Under this amendment the federal government would also have power to change the salary of the Governor General. That salary is fixed by federal statute, which could then be amended by parliament. That is clearly a subject with which no legislature has anything to do.

Under this amendment parliament would also have the power to limit the tenure of office of Superior Court judges. Some people wonder why it is that a judge of the Supreme Court of Canada or of a county court must vacate his office when he becomes seventy-five years of age, whereas judges of the Superior Courts are not obliged to retire at any specified age, but may continue on the Bench for life. The reason is that our constitution provides that the judges of the Superior Courts shall hold office during good behaviour. After this amendment is passed parliament will have the power, if it wishes to use it, to decree a retiring age for Superior Court judges appointed in the future.

**Hon. Mr. Lesage:** Would the honourable gentleman permit me to interrupt? While he is enumerating the powers of parliament, would he answer the question asked a few minutes ago by the honourable gentleman from Waterloo (Hon. Mr. Euler), whether if this amendment were passed the House of Commons would have power to abolish the Senate? I am under the impression that some of the provinces came into confederation on the specific understanding that there should be a Senate, and that they would be represented by a certain number of members in the Senate. Am I right?

**Hon. Mr. Farris:** I shall come to the Senate in a minute, but for the moment I am dealing with other matters. I am like the dentist who bores all around the tender spot and leaves that to the last. I was saying that our constitution provides that the judges of the Superior Courts shall hold office during good behaviour. At the present time, if parliament desire to specify a retiring age for Superior Court judges it would be necessary to amend the British North America Act, but if the amendment contained in this resolution is passed, parliament will of itself have power to say at what age these judges shall retire. Of course, there is no thought that parliament would repudiate any contractual obligation to any present judge, and if any bill to do such a thing were passed in one house it would no doubt be rejected in the other. But parliament might decide to fix a retiring age for Superior Court judges appointed in future.

**Hon. Mr. Dupuis:** May I ask the honourable gentleman why the high court of first instance in Ontario and some other English-speaking provinces is known as the Supreme Court, whereas in Quebec it is known as the Superior Court? That distinction in name was not required by the British North America Act.

**Hon. Mr. Farris:** The Supreme Court of British Columbia is the superior court in that province. The name "superior court" applies to the nature and character of the court and indicates its jurisdiction. The highest trial bench in each of the provinces is the superior court of that province.

**Hon. Mr. Dupuis:** But what about the appeal courts?

**Hon. Mr. Farris:** The appeal courts have been created by an Act of the Canadian Parliament, and not by the Act of confederation. Those courts are within the jurisdiction of the Canadian Parliament. So far as the superior courts are concerned, they are the highest courts in the provinces, and at one time exercised not only trial jurisdiction but also appellate jurisdiction. In some provinces they continue to be known as the Superior Court, but in others they are called the Supreme Court.

**Hon. Mr. Dupuis:** The name "Supreme Court" would lead to some confusion, as the Supreme Court of Canada will be the court of final jurisdiction.

**Hon. Mr. Farris:** It would be better if the various provincial courts could be known as the "High Court of Justice", or by some similar name. In that way references to the "Supreme Court" would always relate to the Supreme Court of Canada.

Honourable senators, let us now come to the question of the Senate. There are two ways of looking at this question. One is to look at the section in the Act which excludes any power of amendment. We are proposing by this resolution to ask the Imperial parliament to give Canada the power to amend its constitution, except in certain matters—the classes of subjects exclusively assigned to the legislatures. The best outline of these classes is found in Section 92 of the B.N.A. Act, where we find sixteen headings which relate to subjects exclusively assigned to the provincial legislatures. The powers which are enumerated in section 91 are exclusively those of the federal parliament. The two sections are so inter-related that one cannot touch one without interfering with the other.

The next limitation of our power under this proposal concerns the

... rights or privileges by this or any other constitutional Act granted or secured to the legislature or the government of a province ...