

CHIEF JUSTICE OF CANADA

EXTENSION OF TERM OF OFFICE FOR FOUR YEARS FROM JANUARY 7, 1940

Hon. L. S. ST. LAURENT (Minister of Justice) moved the second reading of Bill No. 2, to amend an act respecting the Chief Justice of Canada.

Hon. R. B. HANSON (York-Sunbury): I rise not for the purpose of opposing this measure, but rather to explore the position which the government has taken, to ask some questions, obtain some information, if possible and make some general observations.

I assume that the government in introducing this bill early in the session and asking for precedence for it does so because it is a matter of urgency. The situation is that for the present at least this country has no chief justice of the supreme court. That of course is not a calamitous matter, but it is one which I think should be corrected at soon as possible.

At the outset I should like to ask whether the chief justice himself, for whom I have the greatest respect and admiration, and for whom I think generally speaking all members of the bar from the Atlantic to the Pacific, and especially those who have had the privilege of practising before him, have very great admiration, is a willing party to this extension of his period of office; or is this a movement from within the ranks of the government? If so, for what purpose? Is it to serve an ulterior motive, is there anything behind or *dehors* as to the suggestion that the term of office of the chief justice should be extended for a further period?

I have always thought that the policy behind the statute which was passed by this parliament several years ago, whereby judges of courts created under the jurisdiction and authority of the dominion parliament should retire at the age of seventy-five was wise, and under ordinary circumstances should prevail, and should not be departed from other than in the most exceptional circumstances. I remember well the time that law was put on the statute book and of some of the reasons therefor. I am not going back into ancient history to indicate how certain judges were legislated out of office. I have never been in sympathy with the theory that justices of the provincial courts are there for life, so long as they are capable of carrying on, on the ground that there is an implied contract that they should so remain. I have an idea that the judiciary would be immeasurably strengthened if some of the younger men of the profession

were afforded opportunity to ascend the judicial bench and wear the ermine while still in the prime of life, rather than that these places should be filled by men who have passed the allotted tenure. I think there will be general agreement in that. I do not understand how a man of eighty or more—perhaps I am judging by myself—can bring to bear upon the duties of his office as good an intellect as a man of forty-five, a man in the prime of life. In this country we are too much inclined to delay appointment until the age of fifty has been exceeded. I am glad to see that recently a distinguished member of the Ontario bar who is on the right side of fifty has been appointed to the supreme court of that province. As I scan the list of judges of some of our provinces I am reminded that we have perhaps too many old men. I do not say that in any spirit of disrespect; I am merely attempting to state a fact and support a principle.

I suggest that unless there are urgent reasons why this measure should be passed it should perhaps be reconsidered in the light of the theory I have endeavoured, perhaps inadequately, to bring forward.

There is another aspect of the matter. I say this with the greatest respect. I say to the Minister of Justice and to the Prime Minister (Mr. Mackenzie King) that in my view, which may not mean very much, and in the view of many who practise before the Supreme Court of Canada, and of the profession as a whole, the supreme court bench could well be strengthened. I do not want anyone to interpret that as a reflection upon any gentleman who has the honour to occupy a seat on that bench. If the Supreme Court of Canada, which is the highest judicial tribunal in our country, has among its membership the very best men drawn from the profession and from the appellate courts of the provinces, then I suggest to the Minister of Justice that there will be fewer appeals to the privy council, at least in commercial cases. I have had some experience in that regard in the last two or three years, rather sad ones in both instances, I may add, because we lost the appeals when the cases got over there. I am just throwing out this suggestion to the Minister of Finance—

Some hon. MEMBERS: Oh, oh.

Mr. HANSON (York-Sunbury): —I mean the Minister of Justice; the Minister of Finance has enough burdens on his shoulders without being called upon to carry this one. I should like to say a word for the younger men who have the ambition to become judges. Cer-