

The **PRIME MINISTER**. Paying them \$6 a day will not give them less to do.

The **SOLICITOR GENERAL**. The judge ad hoc should be taken from the court in which the judge sits. With fourteen judges in Montreal, if we cannot get one for such cases, it will be a very strange thing.

Mr. **BERGERON**. The idea in the hon. gentleman's (Mr. Fitzpatrick's) mind seems to be that a judge in Quebec or Montreal is different from a judge in the country. But the judges are appointed for the Superior Court of the province of Quebec, and they should be on the same footing, not only as judges but in the opinion of lawyers. Moreover, there are judges in the country who are better administrative judges than some of those in Montreal.

The **SOLICITOR GENERAL**. The judge ad hoc is appointed out of the Superior Court, and I say that the judges of the Superior Court ought to take a man from the district and not put the country to the expense of paying for travelling expenses.

Mr. **CASGRAIN**. Then a man would have to be called from the country to take the place of the judge in Montreal.

The **SOLICITOR GENERAL**. There are fourteen judges in Montreal.

Mr. **CASGRAIN**. And every one of them has more than he can do.

Mr. **BERGERON**. I do not wish to take up more time. I have done my duty in calling these matters to the attention of the Prime Minister and the Solicitor General. My right hon. friend spoke of reform and said we on this side wanted reform. That is true. My impression is there are more reformers among Conservatives than there are amongst the Liberals. What have the present Government reformed since they came into power? They have taken the policy of the Conservative party, but in trying to carry it out they have spoiled it. My right hon. friend said he was becoming a Conservative. That is generally the fate of those who get into power. They are great democrats, great reformers, in Opposition, but when they get into power they are Conservatives, which is quite natural. But my hon. friend said something just now which might have been left unsaid. He said he had become pretty much of a Conservative in consequence of standing by the constitution. Let me tell him he has forgotten something about the constitution. There is an article in the constitution called article 93; and since he has become a Conservative on account of standing by the constitution, I want to read that article to him. The Minister of Public Works forgot that article when he went to Winnipeg:

Where in any province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the legislature of

Mr. **CASGRAIN**.

the province, an appeal shall lie to the Governor General in Council from any Act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

My hon. friend has forgotten this, because he has violated this article of the constitution. He will have to become a little more Conservative.

Motion agreed to.

Bill read the second time, and the House resolved itself into committee.

(In the Committee.)

On section 1,

Sir **CHARLES HIBBERT TUPPER**. Nothing was said by the Solicitor General in regard to an extraordinary provision in clause 1, a retroactive subsection of that clause, which involves the compulsory retirement of judges, although they received their commission in the usual way.

The **SOLICITOR GENERAL**. The provision is a very ordinary one, it seems to me, that no person shall retain his office as a judge of a county court after he has completed the 75th year of his age. That applies to judges now appointed.

Mr. **CASGRAIN**. When a judge holds Her Majesty's commission during good behaviour, how can the hon. gentleman change that? I do not think it was ever done before, it cannot be done. You are giving retroactive effect to this law, affecting judges who are appointed under certain circumstances, and with a written pledge that they should have such and such a salary during the time they acted.

Sir **CHARLES HIBBERT TUPPER**. It is a most vicious thing in principle. Look at the position the judges of the land are placed in, and for the first time. They become actually creatures of the Administration, though they are supposed to be absolutely independent of the executive. That has been the position of English judges all along. Some of the ablest men in Ontario have served as judges long after the age of 75, and some judges of the Supreme Court of Canada are serving now over the age of 75.

Mr. **CAMPBELL**. They ought to have been removed.

Sir **CHARLES HIBBERT TUPPER**. The Ontario judge I have in my mind left the bench at a very advanced age, at a time when he was universally regarded to be the most brilliant judge who adorned the bench at that time. The hon. gentleman does not appreciate the great constitutional importance, under the British system, of having a judiciary absolutely independent of the executive. You appoint judges for life, for in-