

But to make these provisions operative against present members of the judiciary is, I submit, a gross injustice which this House, at all events, should not perpetrate.

Hon. Sir ALLEN AYLESWORTH: Honourable senators, I regret that so important a measure should come before this House at such a late stage in the session, when many honourable members are not able to be present, and I hope that before the discussion on the second reading has ended, sufficient objection to the passage of the Bill may develop to induce the right honourable leader of the House (Right Hon. Mr. Meighen) to withdraw it.

So far as I can see, there is no urgent need for the Bill. In this connection I should like to call attention to the theory implied in the Bill, namely, that the judges who will be affected by it are, notwithstanding their age, perfectly competent to discharge the duties of their office. That is the necessary implication in the option which is given to each of them to remain on the Bench at a reduced salary. This state of things could not possibly be allowed to continue if there were real necessity for immediate retirement of the present occupants by reason of inefficiency. The Bill proceeds, not upon any principle, but upon the mere circumstance that a judge, no matter how efficient he may be, has reached the age of seventy-five years. I submit that this is utterly vicious, and that the passing of the Bill would be entirely detrimental to the public interest.

More than twenty-five years ago, when I was in charge of the Department of Justice, a very distinguished and very active member of this House came to me to discuss the idea of forcing judges to retire when they reached some given age—I think it was seventy.

Right Hon. Mr. GRAHAM: That is worse.

Hon. Sir ALLEN AYLESWORTH: The honourable gentleman, a lawyer, gave me instances in his own province—not the province from which I come—where in his opinion as a professional man the efficiency of an aged judge was so greatly impaired that his retention in office was a menace to the due administration of justice. I declined to entertain the idea. I argued it would be utterly wrong to attempt to establish an age limit which should apply to every judge; that it would be contrary to the true interest of the country and the proper administration of justice. It would be an attempt to standardize where standardizing is a natural impossibility. If a man were a mere machine, it would be all very well perhaps to standardize, but just so long as there is individuality in

Hon. Mr. BEAUBIEN.

human beings it will be impossible to lay down any hard and fast rule to apply to all without doing grave injury to the true interest of the country.

We all know that many a man at the age of seventy-five is better fitted for doing intellectual work than his neighbour who may be only fifty years old. Then how is it possible to say to a body of men, who, after all, are only so many individuals, "You must retire from the Bench when you reach a particular age because, forsooth, the majority of men at that age have their intellectual faculties impaired"?

Another consideration which was suggested to me at the time I speak of, by one of my colleagues in the Government, the watch-dog of the treasury, the Minister of Finance, appealed to him perhaps more than it did to me. He said it would be a scandal to let any judge who was fit to do his work leave the Bench and walk around the streets, drawing his full pay for doing nothing, while the country paid his successor full salary for doing the work, simply because he was somewhat younger. Is that not true?

In the other Chamber the Solicitor General stated that fifteen judges would be affected by this measure if it became law. If they accept the alternative this Bill offers them, and retire upon pension, and fifteen other judges are appointed at full salary to do their work, the federal treasury will have to pay the fifteen retired judges at least two-thirds of their present salaries for doing nothing. At a time when we are being urged to sacrifice, when the Minister of Finance is looking everywhere to find something new to tax, when everybody is being taxed to death, we are calmly told that the country ought to have its permanent debt increased by some hundreds of thousands of dollars, as it would be if you capitalized the annual increase in cost which the passing of this measure would involve. I submit that the whole thing is utterly wrong in principle, in that it is impossible to fix for a set of men any given age at which their efficiency will be so impaired that they will no longer be competent to do their work.

On more than one occasion, twenty-five years ago, the honourable senator to whom I have referred repeated his arguments to me. I finally took the liberty of saying to the good old gentleman, "How do you think it would do to apply your plan to the Senate?" He was forced to argue, in order to be logical, that the position of a judge was far more important and carried with it necessity for a higher degree of intellectuality than the position of a member of Parliament. I differed with him then, and I differ with him now. I