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SUPERANNUATION.

It has more than once occurred to us that the mode of granting superannuation allowances to the judges of the Superior Court should be considered with a view to its amendment, and the comments of English newspapers on a recent speech of Sir Fitzroy Kelly, Chief Baron of the Exchequer, have led us to think the present time not inappropriate for offering some suggestions on the subject. It is comparatively immaterial to us whether the criticisms of the English press on Sir Fitzroy Kelly's recent political speech are just or unjust. It is alleged that Sir Fitzroy Kelly is so much afflicted with bodily infirmity as to be unable to perform his judicial duties, and that efforts were made to induce him to retire some years ago, and that he had objected to do so until his political friends should be in power. We may observe *en passant* that there is an *etiquette* among English judges, fortunately not known in Canada, which induces judges to retire so as to give the patronage consequent on such retirement to the political party by which they were appointed. As an illustration, a judge who owed his elevation to a Whig government would endeavor to retire on superannuation when a Whig government was in power, and *vice versa*. Now Sir Fitzroy Kelly had been Solicitor-General and Attorney-General under the Conservatives, by whom he was appointed Chief Baron. It is said that Mr. Gladstone's government wished him to resign, and that he declined; but it is further said that, though the Conservatives have been four years in office, he still holds on, although upwards of eighty years of age. The question that is raised is simply, whether some plan ought not to be devised for compelling judges to retire on superannuation after they have attained a certain age. In Canada cases have occurred in which judges have retained office after they had notoriously become unable to discharge their duties. If we cite a recent case it is most assuredly with no desire to impute blame, but rather to establish the principle for which we contend, and which is simply this, that a certain term of service as a judge should entitle the incumbent to a superannuation on full salary. On no other terms can we conceive that it would be just to enforce retirement, and by adopting this principle compulsory retirement might very well be enforced. Our allusion is to the case of the late Chief Justice Draper, and we have no hesitation in affirming that, after his long services, public opinion would have supported his retirement on full salary in preference to a protracted leave of absence which could hardly have been refused. It seems desirable that it should be clearly understood that the compensation awarded to the judiciary and to the members of the civil service in the form of superannuation allowance is intended more for the benefit of the public service than for that of the individual. Our judiciary has during a considerable period been independent, and the members of the civil service in practice hold their offices during good behaviour, on the understanding, however, that they consider it their duty and their privilege to abstain from taking part in political contests. Our neighbors south of the line, at least the most intelligent of them, are anxious for civil service reform, but they will never be able to put that service on a satisfactory footing until they adopt the principle of superannuation allowances. It has been invariably found in practice that, even with superannuation allowances, there is great difficulty in effecting the removal from office of men who, from age or bodily infirmity, are rendered incapable of discharging their duties satisfactorily, but who are naturally unwilling to submit to a reduction of their income. This difficulty was found so great in the civil service that a regulation was at last adopted, that no public officer should be permitted to hold office after the age of sixty-five, unless he was able to procure a certificate from the head of his department that he was competent to discharge his duties efficiently. Under that rule more than one public officer has been compelled much against his own inclination to retire from the civil service. We are inclined to think that even greater liberality might be advantageously extended to old public servants, and that in cases when old age was combined with length of service, retirement on full pay might be permitted. The adoption of such a principle is even more necessary in the case of the judges than of the members of the civil service, inasmuch as they are more independent, and the difficulty of removing them consequently much greater. We have adverted to a recent case in Ontario, but in the Province of Quebec several cases have occurred of judges who have retained office long after the time when universal public opinion would have pronounced them ineligible, simply from age or bodily infirmity. Now such a condition of things ought not to be tolerated. It entails evils of considerable magnitude to the public, and great injustice to the working judges. It will not be maintained that we have too large a staff of judges, on the contrary, they seem to have quite as much work as they are able to perform. The difficulty is by no means peculiar to Canada. We have referred to a case in point in England, but many such have occurred of late years in which judges, notoriously unfit for work, have persisted in retaining office. It is hardly possible to provide for every case, but we think that it would be a step in the right direction to amend the Judges' Pension Act. A time ought to be fixed by Act of Parliament when judges should have no option but retirement, and this without interfering with their existing rights. It seems but reasonable, and, moreover, is quite consistent with the Civil Service Superannuation Act, that length of service as well as age should be taken into consideration in determining the amount of pension, but certainly some principle should be established by law which would take it out of the power of individuals to be judges in their own