

impartially so that any judge guilty of such misconduct may be forthwith removed from the Bench. The Judicial Council must conduct an investigation at the request of the Minister of Justice of Canada or at the request of an attorney general of a province.

A difficult point which may well arise is how the Minister of Justice of Canada or attorney general of a province will know that undue delay is taking place until the matter has become more or less of general complaint, and in the nature of a public scandal. It seems to me that one way to safeguard against this situation is for our courts to file something in the nature of an annual report. Every type of operation, from the biggest down to the smallest bull's-eye shop, has to file reports and facts and figures with government departments. I see no good reason against requiring our courts to do the same. I therefore suggest to the Minister of Justice that during the next session of Parliament the act be further amended to provide that the registrar of every court be required to file each year with the Department of Justice of Canada and the Department of Justice of its own province, information giving the number of cases tried, when heard and when judgment was given. It would then be easy to spot any undue delay and the judge or judges causing it. Such other important information showing how many days the court sat, and so on, could also be included.

Whether or not the minister takes my suggestion, I nevertheless repeat that he deserves the compliments of honourable senators for the very worthwhile reforms carried out during his term of office. This bill is one of those reforms, and I commend it to the Senate.

Hon. Lionel Choquette: Honourable senators, before I speak on this bill I should like to ask a question of the sponsor (Hon. Mr. Cook). How does this bill improve the pension of a judge's widow, if it does? Perhaps the sponsor will have the answer by the time I have concluded my remarks. I suspect that it is very much like the case of senators, who had an increase in salary up to \$22,000, yet whose widows are entitled to a pension of one-third of \$8,000. This means there has been no change whatever in the pension of retired senators. Instead of having at least one-half of the pension of a senator, which would be \$4,000, in the event of the death tomorrow of a senator who had intimated in writing that he would retire if and when he reached the age of 75, his widow would get one-third of \$8,000, which would be \$2,666.66, which is not extravagant, to say the least.

Honourable senators, I rise to support the second reading of this bill. In other words, I favour the principle—or rather the several principles—embodied therein.

I certainly have no objection to the proposed salary increases or to the increases in pensions for judges and their dependants, or to the provision of pensions for women judges. I understand that they do not exceed the amounts recommended by the Committee on Judges' Salaries of the Canadian Bar Association. A serious question remains as to whether, in view of the recent salary increases, the pensions of members of the Senate and the other place are now adequate, and as to whether

adequate provision has been made for their dependants, which is the point I raised in my opening remarks. This is surely a matter which must shortly engage the close attention of the Government. If it forgets, hopefully some elephant or other will remind it.

The cornerstone of our system of justice is the rule of law—the product of a thousand years of constitutional experience in the United Kingdom, finding its embryo in the Magna Carta. Those who judge must be independent, financially and otherwise, in forming their judgments. The judicial process is indeed the outward and visible manifestation of the rule of law. And so, like Caesar's wife, judges must be beyond suspicion or reproach.

It is necessary, however, not only that justice be done, but that it appear to be done. I therefore applaud in principle the inclusion in the bill of clause 33, which creates a Canadian Judicial Council, chaired by the Chief Justice of Canada. The same clause gives the council the right to question the capacity of a judge on any of the following bases:

- (a) age or infirmity,
- (b) having been guilty of misconduct,
- (c) having failed in the due execution of his office, or
- (d) having been placed, by his conduct or otherwise, in a position incompatible with the due execution of his office.

On any of the foregoing bases, the council may make a recommendation to the Minister of Justice that the judge be removed from office. If it does, the minister would seek an order removing the impugned judge from office.

In the case of county court judges, they may be removed from office by order of the Governor in Council on the recommendation of the Minister of Justice, after receipt of a report from the council.

Honourable senators, I would like to relate an experience I had some few years ago, in the case of a judge who was a friend of mine and whose conduct was not what should be the conduct of a judge of the Supreme Court of Ontario. I remember that he was asked to resign and he asked what would happen if he did not do so.

The Government was most embarrassed. They went through their statutes to find out what procedure they would have to follow to prevent him from sitting and hearing cases. They came up with this solution. They decided they would have to pass a bill through both houses, impeaching the judge, to prevent him from sitting and hearing cases. It was a very complicated matter.

This judge was able to make some settlement with regard to the pension he would receive, although he had been appointed only three or four years to that position.

Honourable senators, this bill is a great improvement. The council will have certain functions and powers. It can not only impeach a judge but can prevent him from sitting and hearing cases.