

from office either by impeachment or as the result of an investigation. The reasons for this fact are more or less obvious. I do not know of anything that would be more distasteful to a Minister of Justice than to be a party to, or indeed to initiate, proceedings for inquiring into the mental competence of a member of one of the high courts of this country. Any citizen would find it exceedingly unpleasant even to request such an inquiry, and the judges who would have to determine the issue, according to the statute of 1922, would perhaps consider their task the most disagreeable of all. Indeed, I doubt that it would be possible to get any judge in Canada to accept such a responsibility, unless he were compellable.

The non-operation of the two existing methods for the removal of incompetent judges has brought us face to face with the undesirable—I almost said startling—conditions of the present time. As members of the Bar well know, we now have in most provinces, if not in all, some judges who are of such an age that they can no longer give that concentrated, consistent and continuous attention to the duties of their exalted office which the public interest vitally requires. Natural laws prevent them from doing so. The result is that the interests of the whole State, as well as the rights of litigants, are seriously and unjustly affected. I do not want to be understood as saying that there are not exceptions among the judges who have passed the age of seventy-five years. There always have been and there always will be exceptions to a rule. But I do not think it is possible to answer successfully the reasoning of the Minister of Justice of 1927. He said that the only way to meet the situation was to draw a line of demarkation at such a point that in the great majority of cases it would be equitable to those on either side of it, and not substantially unjust to anyone. He quoted the opinion of the Chief Justice of the United States, Mr. Taft, which was expressed in convincing language and supported by powerful reasoning, to the effect that the public would be best served by the Bench if judges were retired at the age of seventy-five.

If that contention was sound in 1922 and in 1927, undoubtedly it is equally sound to-day. And all that the present Bill seeks to do is to have that rule applied to superior court judges. There is no intention of applying the rule by subterfuge, by a back-stairs method. On the contrary, we are blazing our objective before the world, and we are seeking to achieve it in the only constitutional and legal way possible. We are making it clear to everyone that we are trying to secure the re-

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tirement of judges at the age of seventy-five. The law does not permit us to bring about such retirements by compulsion; so we must carry out our intention in the most direct and reasonable way that we can. Therefore we say to a judge, "If you retire at seventy-five you will be just as well off financially as if you remained on the Bench." Surely this measure is less drastic than was the amendment of 1922, which provided that if on inquiry a judge were found to be incompetent and refused to resign, the Governor in Council could order that he be not paid a single dollar more.

The Bill is not quite so forbidding or heartless as some honourable members have painted it. I do not doubt that it would work to the financial disadvantage of a few judges who are still mentally capable, though beyond three score and fifteen years; but I am equally certain that it would result in the removal of some judges whose removal would be for the public good.

These are the reasons on which I support the measure. I earnestly hope that this House will not depart from the unanimous position it took with respect to legislation which was much more drastic and was open to objections that I freely admit are applicable to this Bill. I trust we shall not depart from the precedent which has been set, and that this measure will meet with the same broad and generally liberal treatment that was accorded in the Senate to those previous amendments to which I have referred.

Hon. Mr. DANDURAND: I should like to put a question to the right honourable leader. Is he sure that this legislation will effect the purpose for which it is intended, and which is stated on the face of the Bill itself? Would the purpose not be more effectively and justly accomplished if a distinction were made between present judges and those appointed hereafter, so that those now on the Bench would continue to receive their full salaries on being retired because of having reached the age of seventy-five? If the measure as it stands were made applicable only to judges appointed in the future no injustice would be done, for they would be aware of the terms of their employment when they were sworn in. Is the right honourable gentleman sure that all the judges affected by this Bill would retire from the Bench if their remuneration were reduced?

Right Hon. Mr. MEIGHEN: I am no more competent than any other honourable member to come to a conclusion upon that point. I should think that some judges probably would