

*Judges Act*

applying equally to existing pensions, will provide some relief. At the same time, the non-contributory nature of these annuities has been considered and provisions for a small contribution from existing judges and a more substantial one from future appointees have now been introduced.

The question of what salary levels are required to meet these criteria is one that cannot be answered with scientific precision. The question is one of judgment more than of science. One might start with an estimate of the range of income of lawyers of a calibre generally sought for appointment to the Bench. If the lowest general level is reduced by \$10,000 or \$15,000, one would reach a minimum basic salary of roughly \$50,000 for superior court judges as a starting point. Another approach, by which essentially the same result emerges, is to look first to the level of salary that ought to be paid to the chief justice of a superior court. There is solid historical precedent in Canada for fixing this salary as high as, or in the same general range as, the salaries currently being paid to the most senior deputy ministers in the federal public service. It is only in relatively recent years that the most senior deputy ministers have overtaken those of the chief justices. This approach would lead to a basic salary level of \$55,000 for the chief justice of a superior court.

In fixing the salaries for other judges, we have taken into account the increasing role and responsibilities of chief justices and chief judges, as well as the increased jurisdiction of county and district court judges in most provinces. In employing the retroactive provisions, we have had in mind the postponement of the introduction of the bill last spring, which we originally intended to introduce, which postponement was occasioned by the election.

I should remind hon. members, as well, that when the last review was made of judges' salaries effective in 1971, the then minister of justice indicated his view that salaries of judges should be reviewed at least every three years. In that regard, the retroactive date is fixed at three years after the last salary increase.

Of course, it is possible to do a considerable amount of "creative" analysis with figures and percentages. When this bill was introduced, some newspapers reported that the salary increase for county and district court judges amounted to 72 per cent. This figure is inaccurate. The *Toronto Globe and Mail*, which used the 72 per cent figure in an editorial on December 20, 1974, and criticized the increases, pointed out in a subsequent editorial on February 3 that when additional facts are taken into account, the more accurate figure for these judges is 48.2 per cent over three years. In fact, the increase is spread over three years plus another three years since the last change. But even that percentage does not tell the entire story. For one thing, a limit has now been placed upon the remuneration which judges may receive from the provinces. In other words, it will no longer be possible for the provinces to adjust these salaries beyond the \$3,000 limit proposed in the bill, as has been done in the recent past particularly with respect to county and district court judges.

Furthermore, the bill provides for the elimination of the extra remuneration which many county and district court judges now receive for providing specific extrajudicial

services such as serving on police commissions. I might add that we have received representations to the effect that the latter provision should only come into effect at the time of the final salary increase, that is, on April 1, 1976. While the bill provides for the provision coming into effect immediately, I see the logic of that suggestion and will be discussing the question with members in the committee. Finally, it must be kept in mind that the salary provisions for county and district court judges represent not only a regular salary increase but also a readjustment in the level of salaries they should receive in relation to the other judges in Canada.

The civil jurisdiction of county and district court judges is concurrent with that of the superior trial courts in some provinces, and the county and district courts now probably do more criminal jury work than the superior courts in those provinces where they sit with juries. Some provinces are consolidating their county and district courts, and some have created the position of chief judge to assist in the allocation of judicial resources and in administration generally. We have made special efforts to attract men and women to these courts who are of equal calibre to those being appointed to the superior courts.

For all of these reasons, the narrowing of the salary differential between the county and district court judges and those of the superior courts is not only justified but is highly desirable. I might point out that in this very bill one province is moving in the direction of consolidation of these courts and is in the process of transferring judges from the county court to the superior court. This leads to a salary revision outside of any analysis in percentage terms. It is that kind of an adjustment of work, an adjustment in the capacity, as it were, of judges that must be taken into account in this regard.

My reference to the termination of some part of the extra earnings of county and district court judges in particular has real relevance to the large number of county and district court judges who have been receiving more than \$3,000 in further remuneration from the province or for extra judicial duties. It is our view that the federal government ought to be the main source and, in the end, the only source of income for the judges who constitutionally are appointed by it, and this bill makes a move in that direction in limiting this amount of extra money. It really should be subtracted from the apparent increase we are giving this particular category of judges.

The bill before us provides, for the first time, for the payment of certain expenses incurred by judges. For example, it is often the case that a lawyer practising in one location will be appointed to another location hundreds of miles away. The bill now provides, for the first time, for the reimbursement of reasonable removal expenses. There is also provision for the payment of limited expenses incurred in judicial education and other judicial activities which do not involve the exercise of the judicial function as such. Chief justices and chief judges have a number of functions and obligations which they are required to perform in a representative role on behalf of their courts. A limited sum is also provided for expenses of this nature.

It will be surprising, perhaps, to hon. members that these forms of reimbursement were not included some