

but towards the two kinds of superior courts—the superior provincial courts, and the federal courts—with the result that legislation was passed affecting both. I shall mention the legislation affecting the federal courts first. It was provided that the term of office of a judge of the federal court should expire when he reached the age of seventy-five years. That provision was within the power of Parliament. The federal courts were in a different position from the superior courts of the provinces in that our powers in the provincial sphere were abbreviated by the British North America Act.

Hon. Mr. KING: That applied to judges then on the Bench?

Right Hon. Mr. MEIGHEN: Yes. Their term of office was over at the age of seventy-five and they could no longer be judges. The understanding embodied in the patent of appointment—if it may be described as an understanding—was interfered with exactly as it had been interfered with ten years before with respect to county court judges. I believe that by a subsequent amendment these federal judges, that is, judges of the Supreme Court of Canada and of the Exchequer Court, were given their full salary by way of pension. Thus, while they were removed from the Bench at the age of seventy-five, their remuneration was really not interfered with.

Hon. Mr. BEAUBIEN: If the right honourable gentleman will allow me to interrupt him, I would point out that that was done in 1927. The legislation of 1922 did not say that.

Right Hon. Mr. MEIGHEN: Possibly not. I shall come to the 1922 legislation in a minute.

Hon. Mr. DANDURAND: The legislation of 1927 referred exclusively to the federal courts.

Right Hon. Mr. MEIGHEN: What I am pointing out now is this, that the legislation of 1927 interpreted the engagement with the judges exactly as the legislation of 1912 did. The legislation of 1927, in common with that of 1912, undoubtedly was founded on the assumption that the judge on his part also had an engagement—an engagement with the Crown that he would give his talents to the State while they were sound and strong, and that the provision for his retirement would be availed of by himself when he no longer possessed those talents in their full strength of maturity. The legislation of 1912 and of 1927 was made necessary because judges in both fields had failed to live up to that understand-

ing which was implied at the time of their appointment, and as a consequence the public service had suffered. The duty of the public representatives being to look after the public service, they had to find the most equitable way possible of remedying the evil that had resulted.

I will now proceed to deal with Parliament's treatment of the intermediate judges, those as to whom our powers were abbreviated to the largest extent, the judges of the superior courts of our provinces. They were dealt with in the legislation of 1922. I suggest that as I review this legislation honourable members keep in mind its terms and the principles underlying them, and ask themselves whether any argument could possibly be urged against this Bill which would not apply still more powerfully against the 1922 amendment. Now, what was that amendment? Parliament cannot terminate the tenure of office of a superior court judge.

Hon. Mr. DANDURAND: Except by impeachment.

Right Hon. Mr. MEIGHEN: But it cannot be done by a statute. However, Parliament did not sit back and reason that inasmuch as it could not act directly it should refuse to act indirectly. On the contrary, Parliament reasoned that service to the public is the supreme consideration, and that it is the duty of representatives of the people to endeavour to find the best and most equitable means of raising the standards of that service to the highest possible degree, and of eliminating any injustice that might be caused by inefficient service. Parliament went about its task and legislated machinery for the investigation, in certain circumstances, of any of these judges, by one or more judges of the Supreme Court of Canada or of the Exchequer Court, or even of the superior courts themselves. The main contention against the present measure is that it does what was done by the legislation of 1922. But that legislation provided that the Governor in Council could order the cessation of the salary of any judge against whom an adverse report was made by a commission of inquiry and who failed to resign. If he did resign, however, the Governor in Council was empowered to order that he be paid his pension.

That legislation of 1922 is still in force, and it applies not only to the judges of the superior courts, but also to the Supreme Court and Exchequer Court judges. It is asked why we are not satisfied with the present law. Well, the fact is, as every honourable member knows, that there has never been a judge removed