

Judges Act and Financial Act

It appears to me that we had better start looking at ourselves. Only three judges are requested for British Columbia, with modest increases in pay and some other changes. We have been debating this bill over six or seven months. Perhaps we should be asking ourselves whether it is the judges who are not serving the public, or the Members of Parliament. I think we should get going on this bill and the other legislation before the House.

Mr. Peters: May I ask the hon. member a question?

Mr. Speaker: Order, please. The hon. member may ask a question if the hon. member who has the floor will allow it.

Mr. Hogarth: Certainly, Mr. Speaker.

Mr. Peters: I did not refer to British Columbia because I am not too familiar with conditions there. The hon. member is very learned in the law. He obviously knows the law, the operations of the bar in British Columbia and the requests that go to the Attorney General. He has an obligation, I have an obligation and all hon. members have an obligation in respect of the appointment of judges and the salaries they are to be paid. I should like to ask the hon. member how the Attorney General of Canada protects us. How are we to know if a request for three judges in that area is reasonable? In other words, as I understand it the request has to be honoured by the Attorney General, and my complaint is that we really have no knowledge of whether it is a reasonable request.

Mr. Woolliams: Read the committee reports.

Mr. Hogarth: Mr. Speaker, the question should really be directed to the Attorney General. It would appear that he would take into consideration complaints from people concerned; he would look at the trial rota, find out how much time is being taken and then make a decision on how many judges are required. If he is wrong, complaints such as those of the hon. member will be heard.

Mr. Speaker: Is the House ready for the question on motion No. 1?

Some hon. Members: Question.

Mr. Speaker: Is it the pleasure of the House to adopt the said motion?

Some hon. Members: Agreed.

Motion No. 1 (Mr. Turner, Ottawa-Carleton) agreed to.

Mr. Speaker: Is it the pleasure of the House to adopt motion No. 5?

Some hon. Members: Agreed.

Mr. Knowles (Winnipeg North Centre): On division.

Motion No. 5 (Mr. Turner, Ottawa-Carleton) agreed to.

Mr. Speaker: I understand it has been agreed that motions Nos. 2 and 3 should be grouped for debate. Again, the motions called separately. The Minister of Justice (Mr. Turner) moves motion No. 2 as follows:

That Bill C-243, an act to amend the Judges Act and the Financial Administration Act, be amended by

[Mr. Hogarth.]

(a) adding to clause 5 on page 7, immediately after subsection (2) thereof, the following subsection:

"(3) Where a judge resigned, ceased to hold office or died while holding office after December 31, 1970 and before the coming into force of this act and the Governor in Council granted to him or to his widow an annuity under the Judges Act, the Governor in Council may increase that annuity, effective as of the day it was granted, by an amount not exceeding the difference between the amount of the annuity so granted and the amount of the annuity that could have been granted to that judge or his widow under the Judges Act if this act had been in force at the time he resigned, ceased to hold office or died." ; and

(b) renumbering subsection (3) of clause 5 as subsection (4).

The Minister of Justice (Mr. Turner) moves motion No. 3 as follows:

That Bill C-243, an act to amend the Judges Act and the Financial Administration Act, be amended by

(a) striking out subsections (1) and (2) of clause 10 on page 11 and substituting the following:

"10. (1) Section 27 of the said act is amended by adding thereto, immediately after subsection (1) thereof, the following subsections:

"(1a) Subject to subsection (1b) where, after the coming into force of this subsection,

(a) a judge dies while holding office, or

(b) a judge who was granted an annuity after the coming into force of this subsection dies,

the Governor in Council may grant to each child of such judge an annuity equal to one-fifth of the annuity granted to the widow of that judge pursuant to paragraph (a) or (b) of subsection (1), as the case may be, or if the judge died without leaving a widow or such widow is dead, two-fifths of the annuity that otherwise could have been granted to the widow of the judge.

(1b) The total amount of the annuities paid under subsection (1a) to the children of a judge described in that subsection shall not exceed four-fifths of the annuity granted to the widow of that judge pursuant to paragraph (a) or (b) of subsection (1), as the case may be, or if the judge died without leaving a widow or the widow is dead, eight-fifths of that annuity.

(1c) For the purposes of subsection (1a) and (1b), "child" means a child of a judge who

(a) is less than eighteen years of age; or

(b) is eighteen or more years of age but less than twenty-five years of age, is unmarried, and is in full-time attendance at a school or university having been in such attendance substantially without interruption since he reached eighteen years of age or the judge died, whichever occurred later." ; and

(b) renumbering subsection (3) of clause 10 on page 12 as subsection (2).

Hon. John N. Turner (Minister of Justice): Mr. Speaker, these two amendments were adopted by the committee but came before the House at the report stage because they again dealt with an imbalance of ways and means. Amendment No. 2 is made necessary because it readjusts pensions granted to either retired judges or widows since the beginning of the year because of increases in salary. It was felt that because the salary increase was retroactive to January 1, the pension should also be retroactive. This amendment was made because I feared someone might say that the rights were crystalized by the granting of the original pension and could not, therefore, be adjusted.

Amendment No. 3 will correct a deficiency in the bill because as presently drafted it would enable pensions to be given to judges' children only if the judge died while holding office. It became obvious that we would have to take care of the case where a judge retired because he