

man who has attained to the age of 75, and to assure him that he shall not be retired without some superannuation allowance.

Mr. BORDEN (Halifax). I have a great deal of doubt as to the wisdom of this clause as regards future appointments. After what the Solicitor General has said, I think there is all the greater reason to doubt its wisdom. He has said that we have not many Lord Eshers, but we have had a great many Lord Stephens. I suppose the hon. gentleman meant we have not had many judges who have been able to discharge their duties after arriving at the age of 75 with the intelligence which the place demands, while we have had a great many cases of men under 75 who have failed in their mental faculties. That simply indicates that you cannot fix any time limit which will do justice even generally. One man may be as young at 75 as another at 60. We know from observation, those of us who are much before the courts, that that is the case. Many a judge, after he has attained the age of 75, discharges his duties with more vigour and greater capacity than many a man 20 years younger. I think the best way would be to leave the matter as under the present law, and allow a judge to continue to discharge his duties up to any age within which he is capable of discharging them efficiently. I admit that sometimes difficulties arise owing to the fact that a judge may not understand that he has become unfit to fill his place with efficiency. But I think it would be far better for the country that we should grapple with cases of that kind, however unfortunate it might be, rather than fix a definite time limit within which judges must be retired. By such a definite time limit we cannot receive any certain indication whether a judge is or is not capable of then discharging his duties. We know that in judicial life and in political life and in all walks of life. Who would have thought, for instance, of discharging Mr. Gladstone from the duties of political life because he had attained the age of 75 years. It was after that time that some of his greatest political work was done.

Mr. CAMPBELL. How many Gladstones are there ?

Mr. BORDEN (Halifax). Not many, perhaps. But the point is that we should not fix this time limit so as to exclude any Gladstones of the law. Be they many or few, the law as it stands, contains a perfect security on that point, because, if a judge becomes incapable of discharging his duty, he may be removed from his position. Therefore, I submit to my hon. and learned friend the Solicitor General that this is not a good policy even with respect to future appointments, and certainly I agree with everything that my hon. friend from Pictou (Sir Charles Hibbert

Tupper) has advanced in respect to those judges who are already on the bench.

The SOLICITOR GENERAL. We shall have to consider very carefully the question of superannuation. I have not had my attention drawn to that point until this evening. We will look into it more fully, and, to-morrow, I will be able to say how far we ought to go in this matter.

Mr. INGRAM. The hon. gentleman (Mr. Fitzpatrick) has stated that there are two judges who may be affected by this subsection. I wish to draw the attention of the hon. gentleman to the case of the senior judge in my county, who is 75 years of age, and as competent to discharge his duties as he ever was. Some months ago, rumours were circulated to the effect that if the senior judge would not ask for superannuation, they would find means of forcing him to leave the bench. It strikes me that this section was prepared largely in view of that fact. Only two other judges, one of them something like a hundred years of age, will be affected by this subsection. Now, when the resolutions for this Bill were placed on the Order Paper, we found that the money consideration in the resolution would affect only one or two county judges in the county of Ontario. I consulted the Solicitor General with respect to that point, and he assured me that it would not—

The SOLICITOR GENERAL. The only one affected is the county judge of Elgin, who receives \$2,600. But he was appointed previous to confederation, and we cannot interfere with his salary.

Mr. INGRAM. Having sent resolutions to the judge to assure him that he would not be interfered with, I find that this section is introduced in the Bill. I suppose that the hon. gentleman has a perfect right to do this, as the section does not involve a money consideration. But the effect of this would be to compel this judge to leave the bench, though he is as competent to-day as he ever was to discharge the duties of a judge.

Mr. BORDEN (Halifax). Might I suggest to the Solicitor General that if this section is made to apply to judges now upon the bench, it might be well to consider whether those retired compulsorily at 75 years of age should not receive salary in full. That would, to some extent, meet the difficulty that my hon. friend from Pictou (Sir Charles Hibbert Tupper) has suggested.

Mr. CAMPBELL. I am heartily in favour of this section. I think that when a judge has served his country until he has arrived at the age of 75 years, it is time for him to have a rest. While there may be a few judges in the county who are quite competent to discharge the duties of the office at 75 years of age, yet, where there is one competent there are two or three incom-