

*Judges Act and Financial Act*

philosophy regarding their independence, which is not the subject of this debate, they are the servants of the state in the very broadest use of that expression.

I share the hon. lady's aspiration for a narrowing of the gap, as she said, between those who have cake and champagne and those who seek bread and butter and, hopefully, this Parliament will deal with that matter. The government has a responsibility to provide adequately for those who seek bread and butter, but that is not the issue before the House in this bill.

The minister will not be surprised if I take just a minute on a cause that is not very popular, because here I speak for only two people—not a very large pressure group—who were in the category of servants of the state. They are judges who have retired since January 1, 1971, and because they did not have 120 months, or ten years' service they find themselves without a pension at age 75. I am not going to belabour the point but I want it on the public record because I was unable to get the Standing Committee on Justice and Legal Affairs to accept what I thought was a rather fair and straightforward amendment that would cover the case of the former Chief Justice of Manitoba, Rhode Smith, who has a very long record of public service both in the legislature of Manitoba and on the Manitoba bench. The problem that Rhode Smith faces is that none of his periods of service was long enough to give him an adequate pension, if, in fact, any pension at all is payable to him.

In another, more modest judicial capacity was H. N. Jonah, of Sussex, New Brunswick, who retired after serving about nine years on the county court bench. The formula I evolved—I evolved it because this bill is retroactive in its payment provisions to last January—was such that these two gentlemen would be able to get a pension prorated according to their years of service as against a ten-year period, in other words, nine-tenths of a pension in one case and a little over nine-tenths in the other. I regret to say that this was not acceptable to the government. I hope that the other place, where I have had some discussions with people who are interested, in particular in the case of Rhode Smith, will find some way to correct this clear unfairness. They are two gentlemen who have served this country well and to whom a very simple amendment of the bill could have been applied.

I had the record searched by the minister's own departmental officials and was assured that only two people were involved in this particular aspect of the bill, and apparently because they are without power and do not have many people to speak for them their cases have not been sympathetically received by the government. That is all I will say about the matter now.

The hon. member for Winnipeg North Centre (Mr. Knowles) touched a rather personal nerve with me when he spoke of the widows of judges. I know something of what they have had to put up with through long years of neglect under succeeding governments within recent times. As a matter of fact, before this issue was faced by Parliament the technique used to be for widows of judges, including, if I am correct, the widow of the Chief Justice of Canada, to work in one or other department of government, in the parliamentary library or somewhere of that sort, so that they could have, not cake and champagne but bread and butter.

I will conclude my remarks by saying that I hope the minister, when he presents the philosophy behind this bill to the Senate, might be moved to consider the cases of Rhode Smith and Harry Jonah. A very simple amendment, requiring very little change in philosophy because of the retroactive provisions of the bill, could meet these cases in the way I have suggested both before the committee and, in a very peripheral way, before this House.

**Mr. Douglas A. Hogarth (New Westminster):** Mr. Speaker, I will be very brief because I know that the House is anxious to pass this bill this afternoon. However, I wish to take a moment to reply to some of the remarks of the hon. member for Timiskaming (Mr. Peters). One of the things I want to state is that the demand for the increase in the number of judges in British Columbia is coming directly from the court itself and not from the Minister of Justice (Mr. Turner) or from members of this side of the House because they want to become judges.

• (3:20 p.m.)

The fact is that on July 2, 1971, Chief Justice Wilson of the Supreme Court of British Columbia wrote to the president of the Bar Association in my riding and advised him that a bill had been introduced to provide for three much needed judges to be appointed to his court. He said that the bill went as far as second reading and then became bogged down in the summer recess, making it necessary to plan the rota—that is to say, the trial list—for this fall and that many cases would not be heard and many people, as he put it, would go without the obligations of the bar and the bench to the public. This is exactly what happened. It is all very well to talk about problems such as lawyers wanting to become judges, and all this nonsense that seems to be so popular among many lay people. The fact is that modern society has become increasingly complex, our population has increased and therefore we need good members of the judiciary to handle the litigation coming before the courts.

When we were in law school there was an old adage that the brilliant law student makes a good judge and the stupid law student makes good money. Now the brilliant law students are realizing that they can make good money too. If we are to have good judges capable of carrying out their duties and feeling that they are properly recompensed for the tremendous responsibility involved, we have to pay them well.

It is not a popular thing among members of the bar to seek a judgeship. Many lawyers have been approached by the Minister of Justice. I am well aware that there are good lawyers who do not want to sit on the bench, not because of the money but because of the work involved. You have no idea what it is like for a trial judge to sit for two months on assizes. You have no idea what it is like redirecting a jury at half past four in the morning after they have come back for further direction. You have no idea what it is like to be concerned with the poor people that the hon. member for Vancouver-Kingsway (Mrs. MacInnis) was discussing, or what it is like to be concerned about clearing the jails so that trials can be held and people put back on the street or into suitable institutions. The hours are extensive and the responsibilities tremendous.