

Judges Act Amendment

I should like to deal. The first is that in its present form it would be retroactive. I am prepared to concede that objection, though with some reluctance, and in committee I would seek to remove any retroactive feature.

The Ontario rule is not retroactive and I think this bill should actually incorporate the same language used by the Ontario rule. But this I feel impelled to say to those retired judges. I believe that every retired judge ought to concern himself as to whether he is exempt from standards of professional conduct which the largest law society in the nation has imposed for the future. In my submission there cannot be two standards of professional conduct, dependent upon time of retirement; and I would hope that all retired judges would recognize what I submit is an obvious fact.

The other issue that has been raised is the suggestion that prohibition of practice as counsel after retirement would add to the difficulty of inducing leading counsel to accept appointment to the bench. Quite frankly, sir, I discount this suggestion completely. First, the inhibition in this bill is only against appearing as counsel or advocate. How many counsel at the age, say, of 50—which is probably the average age of judicial appointees—would view with great enthusiasm a return early when their financial needs are met without cost to them?

Of course, Mr. Speaker, all who love the law, as I confess I do, look forward to “keeping our hand in” all our life, but there is a great role for a man of 75 in using his wisdom and experience in fields other than advocacy.

Second, sir, the rule in the United Kingdom has been no inhibition to appointees there since the reign of Charles II, and for myself I cannot believe that adherence to the standards of ethical conduct laid down in Ontario so clearly as long ago as 1905 would cause any leading Canadian counsel of appropriate age for appointment to pause for a moment in accepting appointment to a judicial position, a position in which his future is fully assured in only ten years by a pension to which he, unlike any other Canadian, makes no contribution whatever. Some retired judges, I suggest, should pause to ponder on what their earnings as a counsel would have to be in order to save sufficient

money, in the existing tax structure, to purchase pension rights equivalent to those received, without contribution, as a result of a judicial appointment.

No, sir, I do not believe that Canada would be deprived of any judicial services of distinguished counsel by the imposition of a convention which has been adhered to in the United Kingdom since the reign of Charles II.

Judges, sir, are not the only persons to whom inhibitions about future activities apply. Former cabinet ministers, who have no pension, and I think properly have no pension, and no matter how brief their service, are under clear inhibitions about their future activities.

Perhaps I may be forgiven a personal example, Mr. Speaker. Because for a few months I was minister of citizenship and immigration I have had to turn away many thousands of dollars worth of briefs offered to me on immigration matters. I claim no credit for the fact, sir, that I would not, as I think I could not properly, act for a fee in any matter directly or indirectly related to my former departmental responsibilities. I suggest that this is the only acceptable standard and it is part of the proper price which we must pay for the privilege, and the real privilege, of high office.

So, sir, I can see no hardship in the bill. I can see nothing wrong in indicating to a retired judge that if he wants to receive his pension he may engage in practice of law but that he may not appear before the courts which he formerly adorned.

One very distinguished retired judge expressed to me shock that such a bill as this would be introduced by a Conservative. It is simply and precisely because I am a Conservative, a Progressive Conservative, with the deepest respect for the great traditions of the bench and bar, that I have introduced this bill and that I commend it now to the house.

• (5:40 p.m.)

[Translation]

Mr. G.-C. Lachance (Lafontaine): Mr. Speaker, I wish to congratulate the hon. member for Carleton (Mr. Bell) for introducing that bill. However, I cannot agree with him.

I practised law regularly in the province of Quebec for 12 years, before judges of the Magistrate Court—now called the Provincial Court—the Superior Court and, of course, the