

JUDGES BILL

MOTION FOR SECOND READING NEGATIVED

The Senate resumed from yesterday the debate on the motion for the second reading of Bill 84, an Act to amend the Judges Act.

Hon. Mr. GRIESBACH: Honourable members, I moved the adjournment of the debate yesterday on the ground that I thought we might improve the time by giving this matter some further consideration. After having considered it further I have decided to support the Bill. I think we are a little careless when we say that a judge is appointed for life, because the instant he takes his superannuation he ceases to be a judge, and as nearly all judges take superannuation sooner or later, their term of office is really for only such length of time as they choose to remain judges. That is an entirely one-sided arrangement. This Bill seeks to provide that a judge shall retire upon pension at the age of seventy-five, but that if he has not served for fifteen years he may continue until he has completed such a period in office.

The question whether a man who has attained the age of seventy-five years is fit for the discharge of public duties will never be settled by discussion. Experience has shown that the degree of fitness depends upon the person. In this House we have had many men of seventy-five or eighty years of age, or even older, who were as efficient as any of the younger members. The same can be said of judges on the Bench, and men elsewhere. Generally speaking, however, a man of seventy-five has at all events reached the maximum of his powers and may be said to be on the decline.

The objection is raised that this legislation will cost us \$90,000 a year in pensions and in the replacement of judges; but if it can be said in a general way that the efficiency of our judges is being increased thereby, the expenditure of \$90,000 a year will be a comparatively small item.

It was argued elsewhere that this legislation would result in the wholesale retirement of judges and the wholesale appointment of others. Such will not be the case. The judges will arrive at the age of seventy-five years at various dates, extending over the next four or five years; consequently the appointment of a great number of judges by one party is not even in question.

I think the strength and vigour of our Bench will be improved by this legislation and that some abuses will be cured. The honourable senator from Montarville (Hon. Mr. Beaubien) spoke yesterday of legislation that already exists which makes possible the displacement of judges who are mentally

or physically unfit to perform their functions. He omitted, however, to tell us in how many cases action had been taken under it. I venture to think the cases are very few. There is a natural disinclination on the part of any person to commence such proceedings. I have never heard of such a thing having ever been done, and I do not think it is likely to be done; therefore I believe the existing provision is no cure for the situation.

For these reasons I think we should do well to pass this Bill.

Right Hon. Mr. MEIGHEN: Honourable members, I should not feel that I had fully performed my duty if I permitted this Bill to be defeated, or even carried, without saying something in reply to the impressive arguments urged against it in this House. I say this despite the very pertinent remarks of the honourable senator from Edmonton (Hon. Mr. Griesbach), who has touched on certain phases of the case for the Bill, which I think are powerful and which I hope to elaborate somewhat this afternoon.

No one could listen to the honourable senator from Montarville (Hon. Mr. Beaubien) and the honourable senator from North York (Hon. Sir Allen Aylesworth) without feeling that a most plausible and impressive case could be made against the Bill, and that it would be difficult to present a stronger case in its favour. I do not think any argument advanced against the measure could be described as irrelevant or weak, in an argumentative sense, and I did not feel competent yesterday, without recourse to the statutes and the history of the subject, to answer the assault made upon the Bill. To-day I shall do the best I can to meet it, convinced, as I am, that on the whole the public interest will be served by the legislation and that no such instances of incurable injustice as have been referred to will follow in its train.

Let us devote our minds for a moment to the actual terms of the measure. The Bill has for its subject-matter judges of the superior provincial courts of the Dominion. Proceeding on the assumption that Parliament is not able to abbreviate the term of office of those judges save and except for misconduct, or, by virtue of an Act of 1922, for incompetency, the Bill provides that judges who remain in office after they reach the age of seventy-five, shall receive, not full pay, but 66⅔ per cent of full pay, which is the same amount as they would receive had they retired. That is the beginning and the end of the measure, except for the proviso that if a judge has not been on the Bench for a period of fifteen years, even