

*Retirement Age*

which concerns the compulsory retirement age of 65. I have been especially interested in this question during the past couple of years. Since the Charter of Rights was adopted on April 17 of last year, a number of federal Government employees have expressed to me their concern and interest in continuing to work beyond the age of 65. I must say that so far as the two or three cases which I have been involved in are concerned, the Government has recognized at least the spirit of the Charter of Rights and has not required these people to retire at age 65, thus moving in the direction in which the Hon. Member's Bill would have us move. Of course, the Charter of Rights itself does not come into effect for three years, but in the interim, at least in the two or three cases in which I have been involved—one was an employee of the Department of National Health and Welfare and another was a postal employee, which is a Crown Corporation—leniency has been shown.

The effect of the amendments which are proposed in Bill C-425 this afternoon would end the practice of mandatory retirement at age 65 in the federal Public Service and in the federal institutions, which practices are subject to the regulations of the Canadian Human Rights Commission. I want to indicate my support for the Hon. Member for Grey-Simcoe (Mr. Mitges) in putting this motion before the House today.

● (1740)

Mandatory retirement has been the subject of a number of reports in recent years. In 1979 the special Senate Committee on Retirement Age Policies issued a report entitled "Retirement without Tears". In January, 1980, the Compensation Research Centre of the Conference Board of Canada published a report entitled "A Mandatory Retirement Policy: A Human Rights Dilemma". A year ago last February the Manitoba Commission on Compulsory Retirement submitted a long and detailed report. Each of these reports, Mr. Speaker, supports the concept of abolishing mandatory retirement. But each study acknowledges that the issue is a complex one and it will bring problems which must be addressed. That is why the relevant provision in the Charter of Rights will not be fully implemented for three years.

There are many arguments for and against mandatory retirement. Those in favour would argue that its abolition will cause serious social and economic problems, particularly at a time of high unemployment. They also argue that mandatory retirement means younger and ambitious employees have greater opportunities for promotion. Mandatory retirement simplifies the work of personnel managers. When retirement is automatic at 65, employers can set up systems for assisting employees approaching retirement. If age is not the basis for retirement, employers will have to set up some system of review to ensure that employees remain fully competent to carry out their duties. Under the present system, employers are usually lenient in assessing employees approaching retirement age. If it becomes flexible, employers may become tougher and there may be more employees retiring earlier than at 65. With a mandatory retirement age, employees have no excuse for putting off retirement planning. In addition, elimination of mandatory retirement would have an effect on group disability

and health schemes, and so on. If you remove mandatory retirement, are the human rights of young people denied?

However, Mr. Speaker, those opposed to a mandatory retirement age, as the Hon. Member for Grey-Simcoe has argued—and I would want to be associated with his arguments—argue that there is no arbitrary and predetermined age which corresponds to changes in mental and physical powers. Mandatory retirement ignores the diversity in people. Some should perhaps be retiring well before 65. Mandatory retirement may damage the standard of living of people and force them into poverty. It may put some stress on people who are really functioning at the peak of their ability and want to continue on past age 65. Mandatory retirement results in a waste of manpower, and is contrary to the national and international emphasis on human rights, especially the prohibition of discrimination on the basis of age. While some may argue that it is impossible to consider human rights in isolation from economic issues, I propose to leave to others the economic arguments both for and against the issue and to concentrate on the legal and human rights implications of mandatory retirement.

The proclamation of the Canadian Charter of Rights and Freedoms on April 17, 1982 has renewed interest in the question of mandatory retirement. Section 15 of the Charter, which comes into force on April 17, 1985, provides that every individual is equal before and under the law and has the right to equal protection and equal benefits under the law. That Section also prohibits discrimination based on age. While it must be read in conjunction with Section 1 of the Charter which permits reasonable limits on rights, there are many who see in Section 15 a bar to any law which establishes a mandatory retirement age. Others, however, are of the view that provision for mandatory retirement at a certain age might be found, in a free and democratic society, to be a reasonable limit on the right not to be discriminated against on the basis of age. This question has been addressed for some time now by human rights legislation in Canada.

Most Provinces have prohibited discrimination on the basis of age. However, in the Human Rights codes of a number of Provinces, age is a defined term, meaning that discrimination is prohibited on the basis of age for those between age 18 and 65. Legislation in Manitoba and New Brunswick does not establish an upper age limit for discrimination. In the case of Newport versus the Government of Manitoba, the Manitoba Court of Appeal held that the Government of Manitoba was bound by the anti-age discrimination provision of the Manitoba Human Rights Act, and the compulsory retirement of Mr. Newport at age 65 violated that Act. Some Provinces, such as Ontario, permit discrimination on the basis of age if the mandatory retirement relates to a bona fide occupational requirement. This issue has come before the Supreme Court of Canada in the case of *the Ontario Human Rights Commission et al v. the Borough of Etobicoke* in 1982. The Supreme Court upheld a complaint of discrimination by a fireman who was compelled to retire at age 60. The court held that the assertion