

Judges Act Amendment

involved in arriving at estimating and paying the costs of transportation. What I am talking about now is the possibility for the railways to negotiate with eastern feeders agreed charges for the transportation of Ontario corn to those points under the present system which, even if there were no subsidy applied to the transportation costs, would give Ontario corn a better position in the maritimes, and probably after that in Quebec, in relation to imported American corn.

Clause agreed to.

Title agreed to.

The Chairman: Shall the bill as amended carry?

Mr. Churchill: On division.

The Chairman: Shall I report the bill as amended?

Some hon. Members: Agreed.

Bill reported.

Mr. Sauvé moved the third reading of the bill.

Mr. Deputy Speaker: Is it the pleasure of the house to adopt the motion?

An hon. Member: On division.

Motion agreed to and bill read the third time and passed.

Mr. Deputy Speaker: It being five o'clock the house will now proceed to the consideration of private members business as listed on today's order paper, namely, public bills and private bills.

JUDGES ACT AMENDMENT**CURTAILMENT OF COURT APPEARANCES OF JUDGES IN RETIREMENT**

Hon. R. A. Bell (Carleton) moved the second reading of Bill No. C-20, to amend the Judges Act (Discontinuation of Pension).

He said: Mr. Speaker, this bill is designed to discourage and, if possible, end the practice of judges retiring on pension, some allegedly on grounds of ill health, and then returning to plead in the courts in which they previously sat, before their former colleagues on the bench, or alternatively to plead in inferior courts or tribunals in respect of which they once exercised appellate jurisdiction. Sometimes such retired judges have

[Mr. Sauvé.]

been known to cite in argument decisions they themselves made.

The bill does not seek to deprive a retired judge of an opportunity to practice law, but only to deprive him of a right to appear as a counsel or advocate in the courts. Until recently there were very few cases of retired judges returning to practice. There are now a substantial number across Canada, and for two reasons the problem is likely to become considerably more acute; first, the now universal retirement age of 75 for all judges and, second, the much greater longevity now apparent due to advances in medical science.

The remedy provided in this bill is the cessation of pension, and the proposed amendment reads as follows:

If any person who was granted a pension or an annuity under the Judges Act, chapter 105 of the Revised Statutes of Canada, 1927, as amended, or who is granted an annuity under this act, engages thereafter in practice before the courts as a barrister or advocate at the bar of any province, such pension or annuity shall cease, and shall not thereafter be resumed whether or not such person desists from such practice.

My purpose has been to provoke public and professional comment on the subject, and I readily concede that the pension penalty provided in this bill is a much less satisfactory technique than would be rules of professional conduct adopted by the various governing bodies of the legal profession. But the pension penalty is the only remedy which appeared open to a federal parliamentarian to propose.

Since this bill was introduced, the largest governing body of the legal profession in Canada, the Law Society of Upper Canada, has acted, I am glad to say, and therefore so far as the province of Ontario is concerned, this bill has become academic. Ruling 35 of professional conduct, passed by the Law Society of Upper Canada in Convocation on April 15, 1966, reads as follows:

● (5:20 p.m.)

Retired Judges Returning to Practice

Without the express approval of Convocation, no Judge of the Supreme Court of Canada, the Exchequer Court of Canada, the Supreme Court of Ontario or of a County or District Court who hereafter retires or resigns and returns to practice, shall appear as counsel or advocate in any court or in chambers or before any administrative board or tribunal.

In other words, this professional ruling accomplishes in Ontario the precise purpose for which this bill was introduced. My sincere hope is that other governing bodies of the legal profession will follow this example