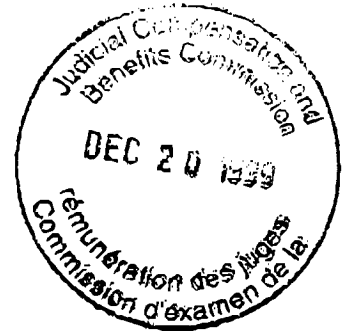




COURT OF QUEEN'S BENCH OF ALBERTA

THE COURT HOUSE
611-4TH STREET S.W.
CALGARY, ALBERTA
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December 20, 1999

The Quadrennial Commission
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Further to the letter of November 15, 1999 from Justice Paperny which indicated that a number of Judges would be filing a separate submission to address the inequities that have arisen in the Judges' retirement plan, we wish to advise that we will not be filing such a submission. We have now had an opportunity to review a draft of the submission of the Canadian Judges Conference. While we are not sure that their recommendations fully eliminate these inequities, we acknowledge that they have properly identified the equity issues. Our submission in this regard would have been needless duplication.

The reason for this letter is threefold:

1. To indicate our full and unqualified support for the CJC in its request for a salary increase.

Comment:

This is not an equity issue but it is equitable because it provides a needed benefit to all judges.

2. To urge the commission to consider the equity issues raised in the CJC submission independently of any salary issue.

Comment:

The equity issues must be dealt with by the government completely and independently of any salary issue in the manner that the government is currently dealing with the pay/equity issues in the public sector. Surely the government cannot argue that any employee who received a salary

adjustment due to the implementation of pay/equity should not be entitled to receive a salary increase that would have been generally available to all employees by reason that they received the pay/equity adjustment. More importantly, the government cannot assert that no government employee, including those not the subject of the adjustment, would be entitled to a salary increase because of the requirement to satisfy pay/equity. The legal obligation to address pay/equity issues and the appropriateness of a salary increase are not linked.

We encourage the commission to deal with the equity issues independently of any salary issue.

Dealing now with the CJC submission, specifically the recommendations on retirement, pension contributions and election to supernumary status, we note these recommendations will only eliminate the inequalities for Judges appointed at an age 45 years or older (See attached materials). One hundred and thirty (130) Judges, who were appointed since 1989 and were under the age of 45 at the time of appointment, remain in the unenviable situation where they must work more years than everyone else for the same benefit. We support the CJC recommendation to alleviate this inequity by eliminating all contributions after 15 years and by providing an enhanced annuity for additional years served. Unfortunately, it still does not address the inequity of when these may elect supernumary status or retire because the CJC submission has selected age 60 as the threshold entitlement age. While that improves the situation from the current 65 it still results in 130 Judges being subject to different treatment without justification.

Under any scenario, when the commission deals with the equity issues, we would urge the you to recommend 15 years as the threshold for contributions as recommended by the CJC submission and two earlier commissions. Since this remedy is only a part of the solution for all of the judges appointed under the age of 50, it should be accompanied by implementation of the CJC submission recommendation for an enhanced annuity for each year served after 15 years for those Judges that have not reached the threshold age of 60 or some other appropriate solution. As noted above selecting any age for entitlement other than 15 years service results in continuing inequity for a group of Judges. We recognize that the cost of eliminating the inequalities, depending on the remedy selected, could be significant.

There is a related issue.

3. There should not be an unlimited rule of 80 or alternative preferential treatment for Judges appointed after the age of 60.

Comment:

Having put forward recommendations to deal with these inequalities, the CJC submission includes a recommendation that a group of judges receives greater than equal treatment. The unlimited rule of 80 or the alternative preferential treatment for appointments made over the age of 60 enables a "super group" to exist where a full annuity would be payable, for instance, for 5

years of service and contributions. In dealing with the issue of Judges appointed under the age of 50 years, we are distressed that they continue to be treated unfairly and, in this latter case, we are equally distressed with a recommendation that would allow Judges appointed after 60 to be treated better than everyone else. In each case, it is inequality of treatment that troubles us.

Conclusion:

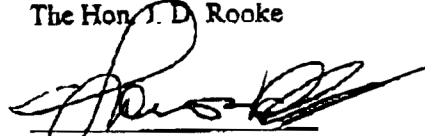
This letter enjoys the support of a number of judges, some of whom have signed below. Some of them are directly affected some are not; all believe in equality. We look forward to addressing you personally, if necessary, where we will urge the commission to approve a salary increase and appropriately address the equality issues.

Sincerely,


The Hon. D. B. Mason


The Hon. B. L. Rawlins


The Hon. J. D. Rooke

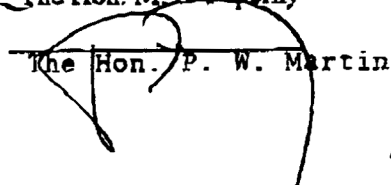

The Hon. L. D. Wilkins


The Hon. C. S. Phillips


The Hon. S. J. LoVecchio


The Hon. G. C. Hawco


The Hon. M. S. Paperny


The Hon. P. W. Martin

JUDICIAL APPOINTMENTS MADE SINCE 1989

1. 596 Judges were appointed : 178 women (30%) and 398 men (70%)
2. 148 women (83%) were appointed under 50 years.
165 men (41%) were appointed under 50 years.
3. 84 women (47%) were appointed under 45 years.
46 men (12%) were appointed under 45 years.
4. 22 women (12%) were appointed under 40 years.
2 men (.005%) were appointed under 40 years.
5. There are 313 Judges appointed under the age of 50 years; 159 Judges were appointed between 45 years and 50 years; 130 Judges appointed under the age of 45 years; 24 Judges appointed under the age of 40 years.
6. There are 1,018 Judges appointed in Canada; 596 were appointed since 1989, leaving 422 without statistics as to age of appointment. In other words, there are statistics for 59% of the Bench since 1989, but there is little doubt that the appointments before this date were predominantly men, more so than after 1989.
7. Since 83% of the women were appointed under the age of 50 years as opposed to 41% men, women are required to contribute more and serve more years on a ratio of 2:1.
8. If the threshold age of 60 years is selected, 130 Judges continue being treated unfairly. (84 women, 46 men).
9. If the threshold of 55 years is selected, 24 Judges continue being treated unfairly. (22 women and 2 men).