

MEMORANDUM IN REFERENCE TO JUDICIAL SALARIES IN CANADA, SUBMITTED TO THE GOVERNMENT OF CANADA ON FEBRUARY 8TH, 1928, BY THE JUDICIAL SALARIES COMMITTEE OF THE CANADIAN BAR ASSOCIATION.

The question of judicial salaries has been under consideration by the Governing Bodies of the Legal Profession throughout Canada for some time. The conviction has steadily grown that having regard to the cost of living and the increasing financial demands on judges, the present scale of salaries is inadequate and should be substantially increased. In August last the Canadian Bar Association at its Annual Meeting appointed a special Committee of representatives from the various provinces, to consider the matter. The Committee in due course reported to the Association as follows:—

"1. The Committee has considered the reports of the Conference of Representatives of the Governing Bodies of the Legal Profession in Canada and of the Governing Bodies of the Legal Profession in the Provinces of Ontario, Manitoba, Alberta and New Brunswick, relating to Judicial Salaries, and after having given full consideration to the whole matter begs to report as follows:—

"2. The Committee has reached the conclusion that the salaries now paid to Judges of the Supreme Court of Canada, the Exchequer Court of Canada and the Superior Courts in the Provinces are, having regard to the cost of living and the increasing financial demands on Judges, entirely inadequate. The Committee is of opinion that in the public interest the Judges of the Supreme Court of Canada should receive \$20,000 per annum and the Judges of the Exchequer Court of Canada and the Superior Courts of the Provinces \$15,000 per annum with a reasonable additional allowance to the Chief Justices in such Courts.

"3. The Committee is much impressed by the need for increase in salary to Judges of the County and District Courts but is unable to recommend a uniform increase. It is of opinion, however, that the Judges of those Courts in the large centres of population where the cost of living is high and the volume of work great should be increased up to \$9,000 per annum.

"4. In connection with these proposed increases of judicial salaries the Committee suggests that when adequate remuneration has been arranged the salary paid should cover all services and that

payments for special services under Statutes otherwise should be discontinued.

"5. The Committee is convinced that a substantial reduction in the number of Judicial positions might be made with great advantage to the administration of Justice and strongly urges that the Dominion and Provincial Governments co-operate to that end."

The principle of this Report was adopted by the Association and a Committee was thereupon appointed to bring the Report to the attention of the Federal and Provincial Governments and to respectfully urge that the recommendations of the Report be carried into effect. Since the meeting of the Canadian Bar Association this Report has been approved in principle by the Council of the Bar of Quebec, the Law Society of Upper Canada, the Law Society of New Brunswick and the Law Society of Manitoba.

The Report of the Association has been forwarded to the Prime Minister (or Attorney-General) of each province, and the Committee now begs to present the report to the Federal Government, with the request that it receive sympathetic consideration by the Government, and that action be taken during the present Session to substantially increase judicial salaries.

Canada has always felt a justifiable pride in its Judiciary, a feeling that has not been weakened by a comparison of the Canadian Bench with the Bench of other countries; but this high standard cannot be maintained unless the Government is able to secure men of the highest professional attainments for these positions and the salaries are sufficient to enable the occupants of these important and honourable positions to retain their status in the community.

The salaries authorized to be paid by the Dominion to Judges appointed by the Governor-General-in-Council are as follows:—

Supreme Court of Canada:

Chief Justice	\$15,000.00
Puisne Judges	12,000.00

Exchequer Court of Canada:

President	\$10,000.00
Puisne Judge	9,000.00

Provincial, Supreme or Superior Courts:

Chief Justices	\$10,000.00
Puisne Judges	9,000.00

Circuit Court (Quebec):

Chief Justice	\$8,000.00
Puisne Judges	7,000.00

County and District Courts in all Provinces:

Judges \$5,000.00

For years judicial salaries in Canada have been on a substantially lower scale than in Great Britain or in the other Dominions, and a comparison of the salaries proposed by the Canadian Bar Association with those now being paid in other parts of the Empire shows how reasonable the proposals of the Bar Association are:—

England: \$5.00 to the £.

The Lord Chancellor \$50,000

The Lord Chief Justice 40,000

The Lords of Appeal in the
House of Lords 30,000

Over 30 Superior Court Justices 25,000

Irish Free State:

Lord Chief Justice \$20,000

President to the High Court 15,000

Puisne Judges of Supreme C't .. 15,000

Puisne Judges of High Court .. 12,500

Northern Ireland:

Lord Chief Justice \$25,000

Lord Justices 20,000

Justices 17,500

Australia:

Federal Court:

High Court—Chief Justice \$17,500

Puisne Judges 15,000

State Courts:

New South Wales:

Supreme Court—Chief Justice \$17,500

Puisne Judges 13,000

Victoria:

Supreme Court—Chief Justice \$15,000

Puisne Judges 12,500

New Zealand:

Supreme Court—Chief Justice \$11,250

Puisne Judges 10,000

South Africa:

Appellate Division—Chief Justice .. \$15,000

Four Judges—

One in receipt of 13,750

Two in receipt of 15,000

One in receipt of 16,250

Provincial Divisions—Four Presidents—

One in receipt of	\$15,000
Three in receipt of	12,500
19 Puisne Judges	11,250

United States:

It is possible that in the past, judicial salaries in Canada have been more influenced by the salaries paid in the United States than by those paid in Great Britain or other parts of the Empire, and this may have tended to keep Canadian judicial salaries substantially lower than those paid to judges holding corresponding positions in other parts of the Empire. But in the past five years an important advance has been made in the salaries paid to Federal and State Judges throughout the United States. The Federal Government has increased the salaries of Federal Judges and no less than twenty-one State Legislatures have increased the salaries of State Judges during the past three years.

Federal Judges, effective January 1st, 1927:

Supreme Court of United States increased
from \$14,500 to \$20,000, with \$500.00
additional to the Chief Justice.

Circuit Judges, increased to \$12,500

District Judges, increased to 10,000

State Courts:

New York:

Court of Appeals	\$22,500
Appellate Division & Supreme Court in Departments 1 & 2	22,500
((\$15,000 paid by State, \$7,500 paid by the City of New York.)	
Appellate Division & Supreme Court in Departments 3 & 4	15,000

New Jersey:

Supreme Court	\$18,000
Vice Chancellors	18,000
Circuit Judges	16,000

Pennsylvania:

Supreme Court	\$17,500
Superior Court	16,000

Illinois:

Supreme Court	\$15,000
Appellate Court	12,000
Cook County (Chicago) Appel- late. Circuit and Superior Courts	15,000

In the Southern and Western States the salaries of the Judges are on a lower scale.

County and District Court Judges:

The Judges of the County and District Courts throughout Canada are performing increasingly important functions and the tendency has been to enlarge their jurisdiction and thereby their responsibility and labour. In Ontario, through provincial legislation passed in 1919, there has been a substantial decrease in the number of judges, a reduction from seventy-five to sixty-four judges having been made in that period, without so far as the Committee is aware, any impairment of the work or dissatisfaction to either the Bar or the public.

The Committee is aware that representatives of the County and District Judges recently met the Government and presented a memorial outlining their submission. It is hoped that their requests for an increase in salary will receive careful consideration by the Government. It is the opinion of the Bar that there should be a general increase in the salaries of all such Judges and, as the Report now submitted indicates, that the salaries in large centres of population where the cost of living is high and the volume of work great should be up to \$9,000 per annum.

By Section 100 of the British North America Act the salaries of the Judges of the Superior, District and County Courts are to be paid by the Dominion, and the Committee would regret that a system should grow up, that seems to prevail elsewhere, of making special grants by provincial or municipal authorities in order that adequate salaries might be paid. As the Report submitted indicates, the Canadian Bar Association is of opinion that the salaries paid by the Dominion should cover all services and that payment for special services under Statutes or otherwise should be discontinued. This would not apply, and it was made clear at the Bar Association that it was not intended to apply, to prevent Judges of the Provincial Surrogate Courts from receiving the remuneration paid by the Provinces to the Judges of those Courts.

The maintenance of law and order, and respect for constituted authority, depend largely on the honesty, the ability and the impartiality with which the laws of the land are administered and enforced. Law and order can only be maintained where the Bench continues to enjoy both the respect and the confidence of the community, because of its ability and its integrity.

The Committee believes the proposals submitted are in the interests of the administration of justice in Canada, will aid in securing the best qualified men for judicial positions, and will provide but reasonable compensation for those holding these important and honourable offices.

All of which is respectfully submitted.

Dated at Ottawa, February 10th, 1928.

LAY VIEW OF THE JUDICIAL COMMITTEE.—The Judicial Committee of the Privy Council as a factor in Imperial matters is coming in for criticism just now at the hands of the lay press. We quote the following observations by one of our dailies, not as concurring in the view of the writer, but to show how the wind is blowing:—"It is the feeling that the Judicial Committee of the Privy Council is too often not only a court of law but self-consciously and wittingly a political institution, picking up imperial responsibilities that the British parliament finds it necessary to lay down—declaring ultra vires dominion statutes that the British parliament would no longer venture to veto—it is this that causes disquiet in the dominions and must eventually cause an end to be put to the carrying of law appeals to London. No self-governed country can continue to go there for law without also getting more or less government."