

which he terminated his service. If he resigned, I am not sure.

DELEGATE ADKINS: This does not make that qualification. There is no qualification here for resignation. It only says, active service has terminated, and he has reached his sixtieth birthday. I think this is the provision.

DELEGATE JAMES (presiding): I would like to pursue that same question under this. If the man resigns before he is sixty, is he entitled to his pension at the age sixty?

DELEGATE HARDWICKE: The answer to that is yes, Delegate James. With regard to Delegate Adkins, yes. Is it your question, Delegate Adkins, as to whether or not he continues to receive allowance for the time after he reaches sixty, but before he reaches seventy?

DELEGATE ADKINS: My question is whether or not he can receive the full pension that he would be entitled to by multiplying the years of service times the annual rate for the additional ten-year period between sixty and seventy, if he resigns prior to age sixty.

Normal pension plans are based on some multiple, times years payable over the expected life of the judge. This seems to be a different situation. A man can work for a certain number of years, can get ten full years of added pension by retiring at sixty instead of seventy. I am wondering if this is the intent of the constitutional provision. It is stated here in the negative, but I simply wondered if that was the intention of the provision.

DELEGATE HARDWICKE: He gets so many dollars multiplied by so many years of service, Delegate Adkins, and then there is a maximum of \$23,333 placed on that. It begins when he first has service, and continues through that period of service and if he continues to serve after he reaches the age sixty, those years will count in computing the amount of pension which he will get when he does retire.

DELEGATE JAMES (presiding): Any other questions?

Delegate Bennett.

DELEGATE BENNETT: Mr. Chairman, how did you arrive at these figures of what the rate would be for each year of service?

DELEGATE HARDWICKE: Delegate Bennett, it is in the present Legislative Council bill and it is pretty consistent with the existing law.

DELEGATE BENNETT: Of course, this pension scheme to my mind is no giveaway, and in view of the conversation with Delegate Gill and Delegate Koger and, further, in view of the fact it is the largest section of the transitional legislation, would it not be a good idea to consider revising this and leaving a greater measure of it to the legislature?

DELEGATE HARDWICKE: That is almost what we have done because this is our schedule of legislation. We are not equipped to have hearings, et cetera, with regard to what the provision should be, so we have put in the figures of the Legislative Council bill with the understanding the legislature by January 1st, 1968, could put in whatever it wants, provided they do not run afoul of constitutional provisions with regard to lowering the amount of pension.

DELEGATE JAMES (presiding): Delegate Bennett.

DELEGATE BENNETT: I would certainly hope that you would do so because there are many things here that I notice, being a pensioner myself, that need some further study.

For example, in your lowest grade court, when you deduct the federal and state tax, a judge will not have much incentive to retire at a rather early age when he might otherwise do so, so I certainly hope that the legislature will take this in mind.

DELEGATE JAMES (presiding): Are there any further questions?

Delegate Rybczynski?

DELEGATE RYBCZYNSKI: Delegate Hardwicke, I have been in and out on business, and I got part of Delegate Gill's conversation with you and part of Delegate Sherbow's. I want to be sure of the word "spouse" in section 23.

Now, is there any doubt in your mind whether the word "spouse" means either husband or wife?

DELEGATE HARDWICKE: That is our intention.

DELEGATE RYBCZYNSKI: If a lady judge at the age of thirty-seven who has a husband who is forty should happen to die, does this mean that her husband at the age of forty, fully employable, probably making forty or fifty thousand dollars a year, would immediately start to collect the pension? Let's look at this thing and see if there is anything here that would prevent that.