

*Judges Act*

and give evidence on what they consider to be a fair and equitable increase in the salaries of judges.

Therefore, we believe that there should be no delay in sending this bill to the committee. However, it is our belief that the committee must seriously examine the bill. I will deal with that matter in some detail in a moment. As I have said, witnesses should be called before the committee, in particular representatives of the Canadian Bar Association, the group upon which the minister now relies to give him advice on appointments made to the judiciary. Therefore, let us approve the bill on second reading for study only, and hon. members can then make submissions and, if necessary, substantial amendments after the bill has been through committee stage.

I want to make very clear the three points I mentioned at the outset. Our party believes that judges should receive an increase in their salaries and that at this stage we should send the bill to the committee. We believe that the calibre of judges in all courts and at all levels is very high. It is true that our method of appointing judges is different from that of the United States. Once a judge is appointed, the subject cannot be debated in this House: the appointment is done at cabinet level. I believe that is a superior method because, as we know, in politics the question of personalities can come into debate. For example, in debate in Congress a judge is often destroyed before he rises to the proposition of responsibility. I think that over the years our method has worked well.

I believe I have said before that, like some other hon. members, I have appeared in all levels of courts in Canada. Therefore I can say, without reservations—although there are always a few exceptions—that the appointments made by the various governments of Canada over the years, in my experience as a member of the bar, have been excellent. I have been a member since 1944 of the bar of Saskatchewan; 1951, Alberta; and the calibre of judges we have appointed has been very high. They have distinguished themselves on the Bench and have kept the judiciary separate and apart from other institutions of our democratic process.

We believe that the judiciary in Canada must always maintain its independence, not only independence from political institutions but independence from any influence, conflict of interest or suggestion which might interfere in any way with a clear, honest and forthright judicial decision. That is why, in looking at judges' salaries, one should realize that in this regard they represent a unique profession: they must be independent and they must be economically secure; otherwise we would have problems, which we have not encountered in the past.

I know the minister will agree when I say we must stress the independence of judges. It guarantees security of the weak against the strong; it protects the individual against the community and the all-powerful state; it presents a shield against tyranny of power and arrogance and against the irresponsibility and irrationality of popular action, whether of opinion or of violence.

● (1550)

Often there are crimes committed in society where, once the facts get into the media—and I am not criticizing the media—there is an emotional and social stimulus and

[Mr. Woolliams.]

people are often convicted before they reach the court of justice where they are to be tried by a judge and jury. I will tell the House about the last experience I had in this regard. There were 13 men charged with murder. Some of them were younger than 21, but most of them were around 21 years of age. They went to trial in my city. They belonged to a motor-cycle gang. No one in society really likes motor-cycle gangs: they go about with loud motor-cycles, chains and various other weapons, and make threats.

There were two motor-cycle gangs and they agreed to meet at a place called Little Rock, near Calgary. They got into a fight and their leader was killed. Thirteen of the Grim Reapers gang were charged with murder and all were found guilty by a judge and jury. The trial judge refused to separate the trials. One or two of the people who belonged to the motor-cycle gangs went out in a car that night and merely went into a house; they did not know the plan; they went along only for the ride—yet they were all found guilty of murder. I was not counsel at the trial, but it fell on me, as senior counsel, to argue the case in the Alberta Court of Appeal. The case went to the Supreme Court of Canada. Twelve of the 13 received a new trial. At the second trial, five were acquitted; the others were found guilty of manslaughter and sentenced to 2½ years' imprisonment.

Judges must realize the temper and the emotion of society in regard to such crimes, and when society is ready to do what has been done in the deep south at times. Every level of society is faced with the same emotional, psychological problems when these things happen, so we must have men who completely understand this kind of psychology. The independence of judges enables the voice of sanity to rise above the turbulence of passion. It has to be preserved inviolate.

But what does independence of judges imply? It can be nothing short of this: that the minister to whom such an authority is committed shall himself be the first to respect what has been entrusted to him, the administration of the rule of justice under law, including loyalty to its institutions. In other words, if a minister of justice committed a crime—something like the problems which were experienced in the United States—a judge must be so independent and so secure in his position that he is able to deal with the matter with the degree of independence that we expect of the judiciary.

**Mr. Benjamin:** He did commit a crime—operation LIFT.

**Mr. Woolliams:** The public acceptability of character for such a function is that which exhibits itself in action as being beyond influences which tend to taint its discharge with alien factors. Vital damage to the state would be the impairment of that independence. Its constitutional character is essential to the public acceptance of our mode of resolving conflicts. Judgments may be criticized; they may call for legislative amendment—but the underlying, basic assumption is the intellectual and moral integrity of the judicial officer in the execution of his office. Only under a regime of law can societies today be maintained in peace and freedom. Its administration must carry the respect and acceptance of the public as being of the character postulated.