

Judges Act

Mr. Breau: He did not defy the law.

Mr. Robinson (Burnaby): Keeping in mind the one-day sentence imposed on Clarence Campbell, what was the penalty the trial judge imposed on Jean-Claude Parrot, a man that Chief Justice Gregory Evans of the Ontario Supreme Court called an honest and dedicated man? He was given a sentence of three months in prison. Contrast that with one day to Clarence Campbell for attempting to bribe a Liberal Senator. The hon. member in the Liberal benches opposite suggests there was not a violation of the law. If it is not a violation of the law to attempt to bribe a member of the Senate to obtain a favour, I do not know what a violation of the law is.

It is important that the public see clearly there is equity and fairness in the sentencing system in this country. Cases such as the one I have outlined, unfortunately, do not enhance that impression.

The law and our judiciary must be more sensitive and more accessible to the poor and minority groups. The courts must be accessible to all citizens in this country. Recently we have seen cutbacks in legal aid programs, which mean that the old adage about there being one law for the rich and one law for the poor is, unfortunately, a reality in some cases. It must be a fundamental precept of the Canadian criminal justice system that no man or woman in this society should be denied justice, denied their day in court, because they do not have enough money to pay for a lawyer.

Mr. Speaker, we are talking about the Judges Act and about the role of Parliament in dealing with the federal judiciary. We know that as a result of the proposals by the government—proposals with respect to an entrenched charter of rights which we support—the role of the courts will be substantially enhanced. We welcome the principle of an entrenched charter of rights, a charter which says no Parliament and, indeed, no provincial legislature at any given time, can through a transient majority, take away fundamental rights which many Canadians thought they had yet which could be swept away at a moment's notice, as we have seen in this country on too many occasions. We saw it in 1970 with the proclamation of the War Measures Act; we saw it in 1942, and following that the scandalous treatment of Canadians of Japanese origin who were interned and whose property was confiscated. To this day they have not been adequately compensated. We recognize and we support the increased role of the judiciary. In interpreting a charter of the fundamental rights of all Canadians, we recognize there are very serious flaws in the proposal which is presently being studied by the Special Joint Committee on the Constitution. We do accept, as I say, that our judiciary will have a more activist role, a broader role in interpreting this charter of rights.

For example, the very first section of the proposed charter of rights as it is now worded, is a section which is being condemned by every group which has studied it and which has appeared before the constitution committee. This means it will be up to the courts to decide what the appropriate limits are on the fundamental rights and freedoms of Canadians.

Under section 7 of the proposed charter of rights it will be up to our courts to determine what constitutes the principles of "fundamental justice", a new concept in Canadian law. If reasonable amendments are accepted, as we certainly hope the Minister of Justice will see fit do, then important decisions concerning what constitutes unreasonable search and seizure, what constitutes unreasonable denial of fair bail, will be left to the courts to decide—not just the Supreme Court of Canada but the federal judiciary at every level.

Perhaps one of the most important obligations of our federal judiciary under the proposed charter of rights will be that under section 15; to determine whether there has been a violation of the right of all Canadians, men and women, to equality before the law and to the equal protection of the law. The record of our judiciary on the interpretation of the words "equality before the law" is not one of which we can be proud. That is why we in this party will be proposing amendments which are being urged upon the committee by a number of groups and individuals make it clear that when we talk about equality before the law we are not talking about the concept which has been determined by the Supreme Court in this country to be merely one of equality in the administration of the law but, rather, about equality in the law itself. We talk about no Canadian being denied equality before the law on the basis of some unreasonable distinction. As I say, we recognize that in the interpretation of the charter of rights our judiciary will have an increased role. And we welcome the entrenchment of a charter of rights.

But I must say there is another section of the proposed charter of rights which would take away any discretion our courts should have. It is with respect to that section we hope the Minister of Justice will listen carefully to the representations which have been made by many groups. We hope he will listen to amendments which we shall be proposing. What section 26 of the proposed charter does is tie the hands of our federal judiciary and say they have no—

Mr. Deputy Speaker: Order, please. Is the minister rising on a point of order?

Mr. Chrétien: Yes, Mr. Speaker. I would like to ask the hon. member if he has anything to say about the salaries of the judges. He seems to have avoided it since he started his speech. He is dealing with the bill of rights and other matters, to which I have no objection, but I would like to know how his party stands on the pay increase and if he has any intention of voting for it.

Mr. Robinson (Burnaby): I know that members of the judiciary and others will read with great interest the eight-minute speech of the Minister of Justice. If that is all he had to say about the judicial system in this country then I think it is a rather sorry commentary on his understanding, knowledge and recognition of the importance of the judiciary in this country. I intend to take the full 40 minutes which I have been allotted. I hope the Minister of Justice will perhaps give more serious recognition later on in the course of this debate to the role of the federal judiciary and not merely talk for a few