

Judges Act

profession or their status. But nevertheless, I do want to point out that if we were always to select judges outside the political field, our appointments would not necessarily be excellent, because besides being a theoretician, a judge must also be a practitioner and know at first hand the problems of the people.

I also wish to point out to the minister that he might consider the possibility of changing the method of removing a judge from office.

At the present time, the act provides that, to dismiss a judge, a petition has to be approved unanimously by both houses, that is, the House of Commons and the Senate. Now, such a procedure is extremely difficult and complicated. I do not think it has been used very often in the political history of our country. As a matter of fact, if I am not mistaken, it was only used once.

Therefore, I would ask the minister to consider the possibility of amending the removal procedure, because the government is sometimes faced with a grave problem when a judge repeatedly commits acts that are not in keeping with his functions. In such a case, the government must submit a petition to both houses, in order to dismiss the judge. I should like to see the act amended so that the bar of a province could present to the governor in council a petition, signed by the majority of its members, for the removal of a judge who had committed acts not in keeping with his functions and so that the governor in council could be empowered to deal with such a petition.

I would like it to be possible for the governor in council to be called upon, once a serious inquiry has been made with the Bar of each province, to issue an order in council to remove the judge concerned from office.

Mr. Chairman, that resolution is well looked upon and will be welcomed by the Bar of the province of Quebec. I would like the minister to take into account my remarks about the appointment of judges to our various courts.

[English]

Mr. Brand: Mr. Chairman, I want to make a few remarks with regard to this resolution. In so doing it seems to me I shall disagree with my hon. friend from Charlevoix and agree with the hon. member for Burnaby-Richmond. I have spoken to many members of the bar across Canada and particularly in my province and many of them have expressed to me a desire to see something done

about appointing judges on the basis of merit rather than on the basis of political allegiance. They feel, and I believe honestly, that this would not interfere with those active in politics because naturally the good ones would be appointed anyway, and it was never intended by members of the bar to suggest that there was anything radically wrong with the judges we have today. We have many fine ones, but those of us who are not members of the legal profession look very strangely on a system by which appointments are not made on the basis of merit. I feel it may be a good idea, even though it would be closing the stable door after the horse is stolen, as suggested by my colleague from Charlevoix, to make it easier to remove a bad judge if one should come along. This deserves some thought on the part of the minister.

• (3:50 p.m.)

I may say I am expressing some of the views expressed to me by members of the legal profession who thought it better that they should be uttered by someone not in that profession and who could not be appointed to the bench in this manner. I hope the Minister of Justice will give consideration to the many resolutions that have been passed by bar associations and others regarding what I believe to be a very important matter.

[Translation]

Mr. Laflamme: Mr. Chairman, I just want to add a few words. I am quite willing to admit the principle. Besides, I think that is the one we have always been looking for. In fact, the competence of the candidate for the judiciary must be considered rather than his affiliation to any political party.

However, while I admit that principle, I would hesitate, just like the Minister of Justice (Mr. Cardin), to apply it fully. I would not like it if, by acting in such a way, it could be said that anyone who has been very active in politics has become incapable or incompetent and cannot be a serious or objective judge.

I think that, for many years, generally speaking, not many mistakes have been made as a whole in the choice of judges but I want to point out here that the Bar of the province of Quebec, for one, has been asking for a long time to be consulted when it comes to appointing judges. I think that the general council of the Bar, in Quebec as well as in Ontario and the other provinces, feels that it