

*Judges Act and Financial Act*

advisory council will be appointed to investigate the rates being charged by doctors.

What judges do affects society to a degree. They do not have the right to decide in their own club what they should do. If an individual felt that he was being put down by a judge, he could appeal to the Minister of Justice who would say, "I will investigate it, but do not count on anything because I cannot do anything about it."

A judge is appointed for life, provided he is of good behaviour. He keeps this appointment unless he does something which constitutes bad behaviour. There is the case of a judge who became mixed up in a situation involving speculating. After a considerable time he was put into a position where he resigned. We did not do anything about it. The attitude he presented to the general public was very distressing to lawyers and all those connected with the judiciary.

I presume that judges, like everyone else, make mistakes. The Canadian judicial council is going to correct those mistakes.

**Mr. Woolliams:** We have courts of appeal for that.

**Mr. Peters:** There are courts of appeal to deal with mistakes made in certain situations. The Canadian judicial council will have a number of objectives, one of which is—

—to promote efficiency and uniformity, and to improve the quality of judicial service—

Another object is—

—the establishing from time to time of a conference of chief justices—

The purpose is to have uniformity of law which is sadly lacking at the present time. A very worthwhile object is as follows:

—the establishing from time to time of seminars for continuing education of judges—

(c) subject to section 32, the making of the inquiries and the investigating of any complaint or allegation described in that section.

If we are trying to achieve uniformity of sentences, to establish what judges will do and the role they will play in the situation referred to by the hon. member for Skeena (Mr. Howard), the public should be involved. I think the hon. member is perfectly correct in his allegation that judges really do not know what they are doing: they do not have any idea of the results of their sentences.

There is a considerable difference of opinion in Ontario as to the right of a judge to sentence someone to two years and a day, or two years less a day, and the results that flow therefrom. I do not believe they know what the results will be. They may know what the end result will be. I would like to give a couple of examples. I know of a case where a man charged with impaired driving appeared before a judge. Instead of the judge putting this man in jail, he was put on probation. His driver's licence was automatically taken away. The judge knew the man was a truck driver; he said he would not lose his driver's licence but it would be specified that his licence would cover him only when driving a truck on the job.

• (3:40 p.m.)

I found out that the judge had no right to do that. The judge, in passing sentence, made it mandatory for the

[Mr. Peters.]

Department of Highways in Ontario and the Department of Transport to prohibit this man from having any kind of driver's licence for a period of time. The recommendations of the judge, which hinged on whether the man should be in jail or out of jail, involved whether he could work or not, and the fact that he had lost his driver's licence meant he could not work because he could not drive a truck. So the judge was sentencing him to what he considered to be a lenient sentence but the man obviously was not able to meet the conditions because laws otherwise were opposed to him.

I will give another example. I am sure every hon. member has heard of judges being very lenient when they send someone to a penitentiary where they can be treated for drug abuse or alcoholic problems. Part of the sentence is supposed to be spent in an institution for the treatment of these persons, and this includes psychiatric care. Then it is found that the direction the judge gave has absolutely no influence as far as any department of government is concerned. If the recommendation is that a person be sent to an institution for the treatment of alcoholism or for the treatment of drug addiction or a mental condition, the prisoner finds it is not honoured and that the judge has no right to make it. There are a number of fields where the judge is out of touch. He does not really know what is going on.

We have recently encountered a number of problems in penitentiaries. This reflects on judges who have sent people to penitentiaries, not for punishment but for correction. They have sent people to penitentiaries to learn a trade. They have said, "Rather than two years less a day we will give you a stiffer sentence so that you can go through a trade course in a penitentiary." We have found in some cases that these people have been inducted into the penitentiary system and years later they are still involved, and the judges have not done their jobs.

I believe that if people were really concerned about rehabilitation and the operations of institutions, the problems of society, if we were to appoint lay people from various agencies and authorities a good deal could be done to re-educate judges and make them aware of what is going on today as contrasted with the day when they were first appointed or when they quit practising law. This would result in a much better judicial service for Canada.

We have been very impressed by people like Des Morton and Arthur Martin over the years. These people are far superior to most of the judges in Canada. Their moral fibre is probably considerably better than that of most of the judges in Canada. For a number of years they have been dealing not only with the law in the way it affects people but with the relationship between the law and people and the relationship between individuals and society at large. They have had many advantages which have not been afforded to judges. The judge has often been, like Caesar's wife, above reproach and above everything else. He has been totally divorced from society.

Judges have even stayed out of country clubs because they do not want to be influenced. They have sat on a high pedestal. It is a lonely pedestal. Many of them by doing so have been able to retain a terrific impartiality, but they have lost touch with much of reality, a reality which is available to a number of very competent people in this