

Judges Act

time before this. At the present time, most of these expenses must be borne by the individual judge who has incurred them, or be reimbursed on the basis of an executive decision by the Minister of Justice. Such a situation has obviously undesirable implications.

Before leaving the subject of remuneration for judges, I would like to remind hon. members of the serious obligation imposed upon us by section 100 of the British North America Act. By virtue of this section, our constitution provides, in the interests of a judiciary independent of the executive, that "the salaries, allowances and pensions of the judges of the superior, district and county courts . . . shall be fixed and provided by the Parliament of Canada". It is, therefore, very much the responsibility of parliament to ensure that remuneration is adequate to maintain a judiciary of a competence and integrity which will continue to carry out its judicial role in a manner of complete independence from the executive.

Members of parliament also have a responsibility to ensure that the money of the people whom they represent is well spent. Bearing in mind the broad influence of our judiciary in Canadian society, as well as the services it renders to individual litigants, expenditures which will assist in maintaining a sensitive, intelligent, diligent judiciary of integrity will bear manifold ultimate returns.

● (1540)

Bill C-47 also authorizes salaries for a number of new judicial positions. In the course of committee action I propose to indicate to hon. members some additional positions which I have been requested to fill by various provinces and upon which we may be able to take action by appropriate recommendation and amendment during third reading of the bill. These provisions directly reflect steps taken by some provincial governments to expand the courts in order to cope with increased workloads. They also reflect the reorganization of court structures in some provinces. Prince Edward Island is reconstituting a court of appeal. Four additional positions on the Ontario court of appeal have enabled that court to carry out an internal reorganization. Alberta has now legislated to consolidate that province's district courts as a single district court of Alberta with one chief judge.

Bill C-47 contains additional provisions which will be of assistance to provinces with respect to the administration of justice and, particularly, the administration of the courts. The bill extends the supernumerary option to county and district court judges. It also creates an option for a chief justice to step down from that position after having served as such for ten years but to continue as a puisne justice of the same court. Enabling provincial legislation would be required for each of these options to become available in a particular province.

I am personally very pleased by the increased attention being paid by many of the provinces to the administration of the courts. We are anxious to assist and co-operate in every reasonable way. It is essential that our judicial system and our entire legal system operate in such a manner that the foremost goal is always service to the public for whom, after all, these systems have been created. It is with this foremost goal, of service to the people of

Canada, in view that the government seeks approval in principle and reference of Bill C-47 to committee.

Mr. Eldon M. Woolliams (Calgary North): Mr. Speaker, first of all I want to thank the Minister of Justice (Mr. Lang) for the able way in which he explained the bill now before the House. I agree with him, of course, that the BNA Act sets out that parliament shall fix and provide salaries for federally-appointed judges. Canadian judges of all levels are federally-appointed except for magistrates, now called provincial judges. County court judges, superior court judges—who may be of the supreme court trial division, Queen's Bench, in some jurisdictions—judges of the courts of appeal, the appellate division of the supreme court in some provinces, which is the provincial appeal court, chief justices of the provinces who are the heads of the courts of appeal, judges of the Supreme Court of Canada, and the Chief Justice of Canada are all under the jurisdiction of the federal government which appoints them. Under our constitution, parliament must take the responsibility of fixing and providing their salaries.

I am not sure that it would not be possible for parliament to pass a statute whereby the fixing and providing of judges' salaries could be done by executive order in council. With parliament sitting 10 or 11 months of the year because of the heavy legislative load before it, this might be the answer. The matter could be reviewed and debated in the House. A one-day term could be inserted in the bill, so that if someone wanted to set out certain facts with reference to the increases, it could be done in that fashion.

From what I have read, it seems that not even the best constitutional minds would argue that it could not be done in that fashion. I would ask the Minister of Justice to consider this proposal because I believe that the long delay, through no fault of the minister or of the government, between the time of one increase and the next makes it look as if increases in judges' salaries are out of line with other salary increases.

We in our party believe that the 500 or so judges mentioned by the Minister should receive an increase. We believe that the matter should go to the Standing Committee on Justice and Legal Affairs and that any amendments to the amounts suggested in the bill should be made in the committee, as well as amendments with regard to retroactivity or the percentages of increases. I want to emphasize at this point that all too often it is mentioned that on second reading we debate the principle of a bill. Under the old rules we would be debating the principle of the increase, but the mechanics of it are debated in committee. If any hon. member believes that an increase is justified, whether it is 5 per cent or 40 per cent, then the bill should go to the committee where the exact amount would be debated, as I understand the procedure, and I think I know something about it. Any changes in the bill can be discussed at the committee level. Any motions moved here with regard to the bill would be merely to kill the bill entirely or to delay it.

As I said at the outset, we believe that an increase in the salaries of judges at all levels is justified and we believe that the bill should go to the committee for study. We believe that at the committee level, members of the Canadian Bar Association, and members of provincial bars if they are interested, should appear before the committee