

be changed in committee, given the opinions voiced on all sides of the House.

The government House leader is present in the House. He knows I have spoken with him privately about that aspect of the pensions. It is the part which really concerns me, and I pass that comment to him. He has made no comment to me with respect to it, and I do not suggest that the hon. member for Northumberland-Miramichi is speaking for the government House leader or for the government. But, it is an indication of support on the government side of the House with respect to a concern which we share as well. We should all take it into account when considering the amendment of the hon. member for Winnipeg North Centre.

I would not engage myself in this debate if I did not think it was important. A number of opinions were expressed in the House about judges on December 1 and today. As the Minister of Justice and Minister of State for Social Development (Mr. Chrétien) said, sometimes we forget that there is a peculiar responsibility in the Parliament of Canada respecting the appointment of judges to ensure that the emoluments are sufficient to invite or entice the best in the profession to accept an appointment to the bench and not cast some doubt on the independence of judges because their emoluments, salaries and benefits may not be acceptable, having regard to modern day standards in the profession.

We must remember that judges are peculiar. While they are a special class of people by virtue of their work, they are also a special class of Canadians in the sense that when a federally-appointed judge accepts a position on the bench, he loses some of his most fundamental civil rights. He loses the right to speak publicly on a matter of public interest, even with respect to the operation of his own court except in a most peripheral manner. He loses the right to vote; he cannot choose his member of Parliament.

Indeed there is some doubt as to whether he can even approach his member of Parliament. Given that set of circumstances, this Parliament or any Parliament owes a particular duty to those individuals who accept that special brand of public service to treat them appropriately, but not overly kindly or meanly. We should not talk about them meanly because they cannot speak for themselves. It is important to remember that.

The hon. member for Winnipeg North Centre said something in the course of his speech to which I listened and which verified by asking someone else. He admitted that the judges should have some increase, but his quarrel seemed to be with respect to the amount. He thought the package being offered to judges was a bit rich in the circumstances.

Mr. Knowles: Too rich.

Mr. Baker (Nepean-Carleton): I see the hon. member nodding his head. It is a matter of opinion. I was the member of a government which considered the question of the pay package for federally-appointed judges. While the pay package was proposed during the life of our government was somewhat less than this one, I think it could be argued, if one wished to do so,

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that there has been a passage of time and that perhaps some adjustment should have been made to it.

But I say to my friends in the House that it is not a matter of principle; it is a matter of degree. When this bill goes to committee, as it is bound to, that issue will be discussed and evidence will be heard which I hope will move the minds of right-thinking members one way or the other as to whether the pay package should go up or down. I have to be honest with this court, the highest court in the land. I do not think the pay package is inappropriate. I am not prepared to quibble with \$1,000, \$2,000, \$3,000 or having it stretched over three years. The fact of the matter is that judges, because of circumstances in this place and other places, have not received an increase, especially when we consider what most of them could earn outside. It is very difficult to arrive at a differential.

The principle which I try to apply in my own mind is that the pay package, the emoluments or the salaries of judges or their families ought to be such that they do not become an attraction for persons to accept appointments to the bench or a deterrent to persons accepting that particular public office. It is a difficult standard.

Another aspect is the independence of the judiciary. It is absolutely important to ensure that Her Majesty's judges are independent, that their minds are not moved by any other consideration than doing their jobs. They sit alone and judge the freedom of subjects, or whether one wins or loses a lawsuit or a dispute between two citizens. I do not know of any higher form of public service, including this House, which casts a greater responsibility on one individual than the responsibility which is cast upon a judge. Given that position, given the position we had when my party formed the government in Canada, and from what I know is happening in the United States, from discussions I have had with officials there with respect to their position, there is some difficulty in attracting the best people to the bench. And government justice ministers must make choices. I know that money will not be the complete attraction to the bench. Of course it will not be. But it ought not to be the deterrent to the excellence which we want to have on the bench. That is the principle which ought to guide us when we are considering this bill.

● (1550)

The hon. member for Burnaby (Mr. Robinson) in the course of his speech—some of which I enjoyed and some of which I say with respect to him was somewhat unfortunate—talked about the appointing process of judges. He said there was something wrong with a political party's minister of justice, who must belong to a political party, whether mine or someone else's, making appointments to the bench and that those appointments might be questioned because they might have a partisan ring to them. In other words, a person who has been prominent in the community may be known as a Liberal or a Conservative. That is always a problem. That is the great responsibility which falls on successive ministers of justice in this country, certainly since we have been in confederation. I think generally ministers of justice over the years, whether of