

*Judges Act*

in nature. The process respects and enhances the independence of the judiciary according to our traditions.

The Supreme Court of Canada recently dealt with the independence of the judiciary in the *Beauregard* decision and affirmed that this independence is grounded on both security of tenure and financial security.

The 1986 commission chaired by Mr. H. Donald Guthrie, Q.C., submitted its report to me on February 27, 1987. I then tabled the report in Parliament. The report contained 27 recommendations in total. These recommendations dealt with salaries, pensions, benefits and income tax related matters. The standing committee considered the commission's report in April and accepted it subject to three modifications. Two of the modifications pertained to pension matters. The third modification related to salaries. The standing committee agreed with the commission's proposed salary adjustments but recommended their implementation effective April 1, 1987 rather than April 1, 1986.

The Government has the recommendations of the commission dealing with pensions and tax related matters under continuing consideration. As you might expect, Mr. Speaker, these matters are very complex and relate to broad policy concerns of Government. The Government is moving, in Bill C-88, to address the salary recommendations of the commission and matters directly related to the Charter of Rights and Freedoms.

Bill C-88 is an appropriate response to both the triennial commission report and the report of the standing committee. The commission found that the income of federally appointed judges has "failed to keep pace with other groups in our society". The commission called for a new salary base for judges which is fair to the judiciary. The commission expressed concern that eminently qualified lawyers have declined appointments due to the financial consequences which were to follow.

The Government has accepted the findings and recommendation of the commission regarding salaries and is implementing the recommendation in this Bill. However, in the context of the Government's fiscal framework, we will be phasing in the proposed adjustment over three years. Clause 1 allows for increases effective April 1 and each of the years 1986, 1987 and 1988.

The Bill supersedes indexing adjustments for 1987 and 1988 during this phase-in period. I think it is important to understand that. Therefore, Hon. Members will realize that a certain portion of the adjustments being effected in Bill C-88 would have been received in any event through the operation of the indexation provisions in the Judges Act, indexation provisions which, I might add, use the industrial aggregate index as is the case for Members of Parliament and others.

In addition to providing adjustments to judicial salaries, the Bill will repeal the provisions of the Judges Act which suspend the pension entitlement of a surviving spouse during his or her

remarriage. This statutory suspension of benefits raises serious legal questions involving equality rights which have been recognized both by the report of the parliamentary committee on equality rights and by the Government's response thereto. Another amendment to the Judges Act will also eliminate consideration of a child marital status as a criterion for eligibility for survivors' benefits under the Judges Act.

There are at present over 800 men and women serving Canada on the federally appointed bench. These judges sit on the county and district courts which now exist in British Columbia, Ontario and Nova Scotia; the superior courts, trial and appeal; and under Section 101 of the Constitution, the Federal Court of Canada, the Tax Court of Canada and the Supreme Court of Canada. These men and women serve with honour and distinction. The role has, as many have observed, been enhanced since the coming into force of the Charter of Rights and Freedoms. They face increasing workloads and deal on a daily basis with matters of tremendous importance dealing with the criminal law, civil disputes and complex matters relating to the Constitution and Charter.

While we have always been fortunate to attract excellent candidates to judicial offices, we must ensure that the salaries and other benefits judges enjoy are fair and keep pace with other groups in our society.

I call upon all Hon. Members to join with me in supporting this Bill which is based on certain recommendations of the triennial commission and which relate to fairness and to equality rights considerations.

As I stated previously, Parliament created the triennial commission process for a good and valid purpose. I call upon all Hon. Members to act in the spirit of this process and support the Bill. We, as parliamentarians, have a profound duty to act in a fair way in responding to the report of the triennial commission and to respect the independence of the judiciary in Canada with regard to the matter of financial security.

I would say only that whenever one deals with matters of salaries concerning the judiciary, it should be remembered that the judiciary, because of the nature of their responsibilities, are divorced from the politics of the country and really have no one to act as their advocate concerning the appropriateness of remuneration. When the amendments were made to the legislation to provide for the independent commission to make an assessment on a realistic basis, I think we provided ourselves as parliamentarians with a vehicle within which we can consider these matters. Hopefully we will operate in a sense of fairness and equity toward the judiciary as they are most important to us in Canada.

I commend the Bill to Hon. Members. I hope that we can see our way clear to passing this Bill at an early date.

**Hon. Bob Kaplan (York Centre):** Mr. Speaker, I rise on behalf of the Official Opposition with the uncharacteristic purpose of supporting this legislation.