

Judges Act and Financial Act

was stricken by a calamity, or retired and then died. It is a technicality, and the committee dealt with it on that basis.

I think there may be some agreement if in speaking to these two amendments I address myself briefly to some of the remarks made on the two earlier amendments. The hon. member for Skeena (Mr. Howard) said that it might be useful if the courts of appeal of the provinces were to go on circuit so that it would not be necessary for people from smaller communities to go to the larger centres. I am in substantial agreement with that, except that it really lies within provincial jurisdiction because they determine how the circuits of their courts of appeal will be set up.

The federal court of appeal is a circuit court; it goes anywhere in the country, to the major centres, to meet the wishes of litigants. The court of appeal in the Northwest Territories now goes to Yellowknife. It did not go there before. The court of appeal for the Yukon goes to Whitehorse and it is substantially made up of the courts of appeal of Alberta and British Columbia with an interlocking of the two judges between the Yukon and the Northwest Territories. There is a great deal of merit in the idea, but Parliament does not have jurisdiction in the matter.

With regard to sentencing, we are reviewing the guidelines in this respect in the same way as for arrest and bail. There will be some statutory content in regard to sentencing, for guidance and for limiting the control of magistrates, judges and others connected with that phase of the administration of justice. I might say also that the subject of sentencing has been considered by the Canadian judicial conference which was set up three years ago and is conducting continuing education courses for judges. I believe that the whole process of the administration of justice is one continuum, and what is done on the bench should be done in contemplation of what may happen after custody is assumed by others. On the question of what penalties should be applied under criminal law, that matter will be referred to the law reform commission and considered in their review of criminal law. A year ago we had a meeting with all Attorneys General and as a result a uniform statute has been drafted by the uniformity commission. I hope that will open the way to some sort of federal participation.

With respect to the comments of the hon. member for Timiskaming (Mr. Peters), the administration of justice in the courts is a provincial responsibility under the British North America Act. Strictly speaking, it is up to the Attorney General of a province to advise Parliament, and he has to fulfil that responsibility under the British North America Act. Strictly speaking, I would not have any discretionary power nor, if I might say, would Parliament.

• (3:30 p.m.)

I made it a practice to ask the Attorneys General to give to me statistics of the rolls, the number of judges currently sitting, and so on, in order that I could justify to the Standing Committee on Justice and Legal Affairs, as I attempted to do province by province, that they are necessary.

The comments of the hon. member for New Westminster (Mr. Hogarth) were pertinent. I agree that the number of judges is only part of the problem. There are also the matters of better administration of the courts, postponement arrangements by lawyers, and certain types of cases

that might be taken away from the courts and subject to arbitration such as the automobile cases which now take up to approximately 70 per cent of the courts' time. The hon. member has a point.

The remarks of the hon. member for Winnipeg North Centre (Mr. Knowles) were answered to some extent by the hon. member for New Westminster with regard to the payments to widows of judges who died prior to enactment of the statute. I agree. The hon. member will recall that three years ago we raised this to a maximum of 40 per cent, the same as in the case of a retired civil servant. Widows of judges are treated in the same way. There is no way they can be covered by this bill without a review of the entire situation of the public service.

I cannot say anything more to the hon. member for Fundy-Royal (Mr. Fairweather) than I said in committee. I stated it very fully then. I understand his concern.

Mr. Lambert (Edmonton West): What can you do about it?

Mr. Howard (Skeena): Will the minister permit a question? The hon. member for New Westminster (Mr. Hogarth) stated that we have spent seven months considering this bill. It has been a long drawn-out affair. Does the minister agree that the prime responsibility for that rests with his colleague the Minister of Agriculture (Mr. Olson), who on the last day before the summer recess insisted on bringing forward another bill in spite of the fact we had offered to expedite the judges bill?

Mr. Turner (Ottawa-Carleton): The hon. member has his own opinion, Mr. Speaker.

Mr. Peters: Does the minister not have an opinion?

Mr. Speaker: Is the House ready for the question. Is it the pleasure of the House to adopt the said motion?

Some hon. Members: Agreed.

Motion No. 2 (Mr. Turner, Ottawa-Carleton) agreed to.

Mr. Speaker: Is it the pleasure of the House to adopt motion No. 3 moved by the Minister of Justice (Mr. Turner)?

Some hon. Members: Agreed.

Motion No. 3 (Mr. Turner, Ottawa-Carleton) agreed to.

Mr. Speaker: The hon. member for Timiskaming (Mr. Peters) moves motion No. 4 as follows:

That Bill C-243, an act to amend the Judges Act and the Financial Administration Act, be amended by adding to clause 11 the words "and five lay persons to be appointed by the minister" at the end of line 22 at page 12.

Mr. Arnold Peters (Timiskaming): Mr. Speaker, the reason for moving this very simple amendment to add lay persons to the Canadian judicial council is very obvious. Members of Parliament should not judge themselves. They do not. It does not seem that any other group should be a law totally unto itself. This is becoming more and more acceptable in a great many circumstances where professional people are involved. The government of Ontario is not satisfied with the medical profession policing itself. It has stated on a number of occasions that an