

*Judges Act*

in England the Lord Chancellor, although he makes the appointments, does have a committee outside politics to advise him which he consults prior to making such appointments?

**Mr. Pennell:** I am not familiar with everything which leads the Lord Chancellor to a decision but I know he is unfettered in his discretion. Lord Hewart, the Lord Chief Justice, was actively engaged in the office of Attorney General when a vacancy occurred in Great Britain and he was acclaimed by members of the bar when he was elevated to the office of Chief Justice. The same was true of Lord Birkett who was a member of parliament when appointed to the high court. I point out that it is generally regarded in Great Britain that active participation in politics is beneficial to the quality of a judge.

**Mr. Prittie:** Mr. Chairman, it seems to me that a lot of straw men are being knocked down this afternoon. No one has said that judges are influenced by politics or make political decisions. We are complaining about the fact that at any one time judges in Canada are picked almost exclusively from one political party. No one suggests that their decisions are not impartial from a political point of view. Let us be clear about that. It appears to me that the hon. member for Carleton was rather selective in what he listened to because I said that many of the best people in this country have been involved in political life and should be considered for appointment. My suggestion was that we should consider them all and not exclusively those from a particular group. Let us consider many other people who have not been active in politics but who would make excellent appointments to the judiciary. I think some hon. members have misinterpreted the remarks I made this afternoon.

The hon. member for Carleton has taken exception to an article by Professor Angus to which I referred. On another occasion I will quote from a great many more articles on this subject, because his is not the only one that complains about the system of appointing judges in Canada. In fact, there is a whole bibliography on the subject. In presenting a bill on this subject I will cite some of those complaints.

• (4:20 p.m.)

Let us be clear about one or two other things. People who have taken part in political life should be eligible for appointment to the bench. When I said that in recent years there had been complaints made about the appointment of judges I was not referring just to newspaper stories we have read about

[Mr. Scott (Danforth).]

the troubles some judges have got into. I am referring to the fact that there are judges who are much less competent than they should be. I say this as a result of speaking to a good many lawyers in the different political parties. I was rather shocked when I first heard a group of lawyers talking about some judges and saying that one should try to get a case on the list in such and such a court rather than have it heard by such and such a judge in another court. Here was a plain case of incompetence without regard to the person's political affiliation.

We should try to have the best lawyers appointed to the bench. From what I have heard from lawyers from the different provinces there are a great many people who are not capable of doing the kind of job they should be doing on the bench. They do not get into trouble but the fact is they are not the most able people in the profession. This is the point. We want the most able people in the profession appointed to the bench.

**Mr. Scott (Danforth):** I would not have participated in the debate again except for the intervention of the hon. member for Carleton. He, with his impassioned oratory, managed to shed a good deal more heat than light on the subject under discussion this afternoon. He has suggested that the position we are advancing is in some way an attack upon the judicial system. Nothing could be further from the truth.

**Mr. Bell (Carleton):** Would the hon. member permit me to say that I did not suggest anything that the hon. member for Burnaby-Richmond or the hon. member now speaking personally, said was an attack upon the judicial system. In my opinion, however, the article which was read into the record was a serious reflection upon the judiciary. I refer to the article by Professor Angus who suggested that the judicial appointments in this country were a national disgrace. I say it would be a grave national disservice to allow that article to appear on the record of this house without being challenged.

**Mr. Scott (Danforth):** Naturally I accept that correction and I am glad to have the position clarified. As I listened to the hon. member's speech I took the other interpretation from it which turned out to be a misinterpretation. Naturally we accept the hon. gentleman's word. However, he did make a suggestion which I feel should be corrected. He seemed to say that by taking the position we have this afternoon we are somehow