

Judges Act and Financial Act

other could sit down together and examine the entire structure of Canadian society and the areas of concern to all of us, so that not only the judges would be rendering the decisions and examining that structure, the council would have more credibility among the youth of this nation.

I am concerned about the low credibility of the judicial system among the young people, in fact not only the young people but many of the older people. If there is one thing we in this House should do, it is build up the credibility of our judiciary and not to allow a situation to develop where it could be undermined. The appointment of social workers and such people to the council would be a clear indication that the judges themselves are prepared to allow outside people to be involved in day to day decisions affecting society.

I do not see any reason why the minister should not at least accept a small amendment that would provide for the appointment of laymen to the council. I would hate to think that there has been any type of pressure brought to bear which would prohibit this type of amendment, because I am a firm believer in industrial democracy and I think that people who are affected by the law or any change in conditions throughout the country should have a say in the matter. The people who would be appointed to the council could then express their opinions regarding changes which they believe are necessary. Under those conditions I see no reason why this type of amendment should not be accepted. In fact, this amendment would do much to bring about a saner approach to some of the problems with which we have been confronted.

I am firmly of the opinion that some check of the judiciary is necessary, and with this amendment such a check would be provided. We are all alike. We travel in certain circles, we accumulate friends in the same walk of life, and the same thing applies to judges and lawyers. People in factories move in the same circle and discuss the things that affect them only. All too often we do not accept the experience of people outside our circle which would benefit all of us collectively.

Being a layman, I sincerely hope that favourable consideration will be given to allowing five laymen to be appointed to this council, because I think it would be very strange if an amendment giving the minister discretionary power to appoint these people were not approved. The minister could consult the judiciary in looking for the best people in our country to serve in this capacity and to play a useful part in so far as the social needs of the country are concerned.

Hon. John N. Turner (Minister of Justice): I want to deal first of all with the last part of the argument of the hon. member for Calgary North (Mr. Woolliams) relating to the Supreme Court of Canada. He has seen, as have other members of the House, statistics showing that the roll of the Supreme Court is heavily charged. As a matter of fact, some of the effects of the amendment which this House passed a year or so ago have not yet had time to take effect because the new law applies only to those cases that are instituted at their beginning, in the first instance, after the date on which the act received approval by Parliament.

I cannot accept the suggestion of the hon. member that supernumerary judges of the Supreme Court of Canada would solve that problem. The difficulty is that the Supreme Court of Canada is not only a final court of appellate jurisdiction but is also a constitutional court. As a matter of fact, if further progress is made in the constitutional discussions between the federal government and the provinces, that court will be, under the constitution of Canada, not merely a federal body. Even as the legislation is set up at the moment, it calls for six judges from the common law provinces and three from civil jurisdiction in Quebec, recognizing two systems of law and recognizing the special position of the civil code system in Canada. That is a deliberate balance set by Parliament, and recognized by all the provinces and by the federal government, at Victoria.

Moreover, there is a convention to the effect that among the other six judges—I do not think this is necessarily a fixed convention; it might well change as population trends change—three are ordinarily chosen from Ontario, two from western Canada and one from the Atlantic provinces. As I said, I do not think that is a fixed convention. With the population moving to western Canada I can conceive of more judges coming from western Canada. But in any event, that regional, geographical balance, and also the balance of the two legal systems, is one that the appointment of supernumerary judges from time to time might well upset.

• (4:30 p.m.)

That was the issue that was foremost in my mind and, as the hon. member has suggested, I rejected it for that reason. I want to say that it might seem strange to him that I arrived at that conclusion on my very own. I appreciate his sympathy and that of the hon. member for Timiskaming (Mr. Peters) in protecting me against the officers of the Department of Justice, but I have not come up with too many scars these last 3½ years.

Mr. Peters: Because you give in every time.

Mr. Turner (Ottawa-Carleton): I think I can assure the hon. member and the House that the decisions represented in these bills that are brought forward for the scrutiny of Parliament are, in the final analysis, mine.

When I asked the Canadian Bar Association to strike an ad hoc committee on the Supreme Court the last time that act was before Parliament, they set up a committee under the chairmanship of Mr. J. J. Robinette, Q.C., of Toronto. It was that committee's recommendation that it was inevitable that some day the Supreme Court would have to have control of its roll, which would mean, as in the case of the United States, that the Supreme Court would be reached only by way of leave to appeal. The Committee reporting to me at that time said that they did not think the country or the bar was then ready for that step. I accepted that judgment. Certainly the debate in this House reflected that view. I very well recall the words of the hon. member for Calgary North at that time. But, Mr. Speaker, I have not changed my mind. This is something that Parliament will have to deal with and it is something to which I have been invited to direct my attention.

Returning to the specific issue raised by the hon. member for Timiskaming, the purpose of the Canadian