

*Proceedings on Adjournment Motion*

than provincial judges and that they should be granted salary increases commensurate with their responsibilities. No serious scholar of Confederation would minimize the importance of provincial responsibility under section 92(14) of the B.N.A. Act. It is the duty of the province to administer justice and organize the workload of the courts for, as George Washington so aptly put it, "The administration of justice is the firmest pillar of government."

The responsibility of the federal government under sections 96, 99 and 100 is equally clear. Lord Atkin referred to these sections in the case of *Toronto Corporation v. York* as "Three principal pillars of justice"—"not to be undermined": these are the appointment of judges by the Governor General, the security of judicial tenure, and the provision and fixing of judicial salaries by the Parliament of Canada. I doubt if many people, including the members of the legal profession, have a real conception of the exacting and demanding duties of our federally appointed judges. Want of time prevents my dwelling at length on the subject. I would point out, however, that they must be familiar with the whole compass of the common law and statute law; they must have a solid working knowledge of all matters falling into legal and equitable jurisdictions.

It is neither my duty nor my desire to enumerate all the matters with which they must struggle. It is sufficient to point out that they must have an extensive and accurate knowledge of the rules of practice, as well as the principles applicable to matters such as bankruptcy, injunctions, libel and slander, interpretation of wills, construction of statutes, criminal law, municipal law, real property, mortgages, mechanics liens, matrimonial causes, corporate law, constitutional law, civil rights, contracts, torts, taxation and many other divisions of the law. I make bold to suggest that we have placed an unduly heavy and oppressive load on our judges. It is worth while to note that in England the work of the court is divided into three branches: equity, the Queen's Bench, and the probate and divorce division. Not so in Canada. We expect our judges to be qualified to do justice in all branches of the law.

Further, the changes in the texture of our society and in our social attitudes, and the constant changes in our law have served to put greater pressures on the members of the federally appointed judiciary. An able, courageous and conscientious judge is the best

guardian of our rights and liberties. Their salaries should reflect, in some measure, our trust and confidence in them and our expectations of them as human beings and as ministers of justice.

I do not wish to detract from the important and necessary work done by the chairman and members of the various commissions and boards under federal jurisdiction, but I respectfully suggest that the range and weight of the burden they bear cannot be compared to the task we have set before our federally appointed judges. I hesitate to refer to specific boards, but it is common knowledge that membership of some of them does not require professional qualifications or the constant decision-making that is the hallmark of the judiciary. Members of boards share their responsibilities and assign some of their work to staff and assistants. A judge, on the other hand, works in a solitary world with only a secretary. He cannot share the agony of his decision; it is his and his alone. Yet a comparative study leaves no doubt that our federally appointed judges are underpaid.

• (10:20 p.m.)

On occasion, something is made of the fact that our judges are entitled to a pension. This is a somewhat illusory benefit, the realities of which may be gauged by the relatively small number of federally appointed judges drawing a pension. Based on past performance, only 15 per cent of the 94 county court judges and the 37 Supreme Court judges in Ontario will live to qualify for a pension. This is partly explained by the fact that the retirement age is set by statute at 75. This is against the trend of present-day thinking and I urge that serious consideration be given to retirement upon attaining 65 or at least 70 years of age.

We tend to forget that most of our judges accept an appointment to the Bench at the moment they are embarking upon the most lucrative stage of their professional careers. Apart from the monetary sacrifice, they are restricted in their business and social activities in a way that few of us would accept, for a judge, like Caesar's wife, must be above suspicion. Fortunately for our way of life there has never been a lack of men prepared to dedicate their lives in the constant labour of maintaining our civil, religious and political liberties through the rule of law. We expect our judges to do justice to all. I suggest we do justice to them.