

*Judges Act*

want the best lawyers to be on the bench. I will, therefore, leave it at that. We do, however, monitor that very carefully.

It is very interesting that Parliament must pass salaries. I do not think that judges like that. They would rather have an independent commission do it, but I think Parliament should keep doing it because it gives us a chance to talk about judicial performance in a general way and to talk about government action with respect to judges and judicial appointments. I would like to make a few remarks on that point as well.

The Canadian Bar Association Committee Report "The Appointment of Judges in Canada" of August 20, 1985, states in part as follows:

In our interviews—conducted in every province and territory, with members of federal and provincial governments and courts at all levels, with offices of the Canadian Bar Association and provincial law societies, and with lawyers generally—we found widespread dissatisfaction with the present method of judicial selection and appointments and a broadly-based desire for change.

That change has not come. We have been waiting for the Minister of Justice to indicate a better and fairer process of judicial appointments and we are still waiting.

The report continues:

Jurisdictions that already have judicial councils or selection committees for choosing provincial judges are notable exceptions.

In most jurisdictions, however, there is dissatisfaction with the extent of political patronage in judicial appointments, despite the recognition that political ties and legal or judicial skills often co-exist in the same persons. Where the nominating process emphasizes political criteria, excellent lawyers of the "wrong" or no political affiliation are passed over as serious candidates for the bench, with the result that there can be no assurance that the best possible nominees for judgeships are chosen.

A former minister of justice told us that he sometimes chose the candidate rated "qualified" by the CBA Committee—

The Canadian Bar Association Committee represents some progress in the appointment of judges.

—rather than the one rated "highly qualified", because he was influenced by "other sources" that presented judgments different from those of the Committee.

Such an unsystematic process has resulted in much public cynicism about judicial appointments. Whatever the actual merits of the judges selected, there is a widespread public perception that judges are chosen primarily for political reasons.

In my own Province of British Columbia there are rumours in the bar that the Government may appoint the present Attorney General in the provincial government as Chief Justice of the Province of British Columbia. This is the same fellow who became a legal-laughing stock earlier this year when he unsuccessfully sought a court injunction against a threatened protest strike by B.C. labour on the grounds that the one-day job action would be seditious. Of course, the Supreme Court of British Columbia wisely threw that out. I do not think lawyers in my province would want to see someone who brought that rather strange law suit become Chief Justice of our province.

In summary, yes, politicians or people who have Party affiliations could be appointed judges. As the bar report says,

that could co-exist in individuals who have good legal skills and so on. There are good examples of that in all three political Parties. I think of Davie Fulton and Stu Leggatt as examples.

We are asking for a better process for the selection and for better consultation. We hope that in the end there may be some means of scrutiny such as there is in the American jurisdiction, perhaps by a committee of this House. We have been receiving promises from the Minister of Justice. Like the person waiting for the suitor who receives nothing but promises, promises, promises, that is all the Minister of Justice gives on this area. I would like the Government to study that a little further.

With regard to pensions, I am very pleased that the Parliamentary Secretary mentioned that there were consultations ongoing on a few of the pension problems which the judges have had. I think that can be worked out and I am pleased the Government is doing this.

• (1020)

Let me conclude by saying on behalf of the New Democratic Party that we are prepared to let this Bill pass today after a short debate at third reading. We are pleased with the co-operation in committee and in the House on this Bill. The judiciary is becoming a more and more important level of Government. Canada, this strange country, is kind of half British and half French. It looks back to Britain and France for half our system, the other half following the American system. We are somewhere in between. The great thing is that we are now beginning to fashion our own system, something for which we are all struggling together. A good and strong judiciary where the average Canadian can get justice is what we are really striving for. That is why these kinds of Bills are important.

[*Translation*]

**Hon. Donald J. Johnston (Saint-Henri—Westmount):** Mr. Speaker, it is a pleasure to have this opportunity to speak in this debate, because speaking for my Party, for the Official Opposition in this House, I too must say that as a lawyer and former Minister of Justice, I am convinced this is a very important Bill.

[*English*]

I do not think one can emphasize too much the importance of securing for Canada judges of the very highest calibre. I will say that I share the views expressed by my colleague, the Hon. Member for Vancouver—Kingsway (Mr. Waddell), which is not always the case as you might appreciate, Mr. Speaker. I think it is a tribute to Members of this House on all sides that we seem to be looking together in the same direction on this important issue.

Some weeks ago I had the pleasure of participating in a panel discussion at the University of Alberta. The other participants representing the views of other Parties, were Roy Romanow, who is now the Leader of the New Democratic