

Canada to deal with this all pervasive subject of pollution. If it is to be dealt with, then sooner or later and I hope sooner rather than later, it will have to be considered by the Supreme Court of Canada. The life, fate and well-being of Canada rests with that court. The Supreme Court of Canada is a very human institution, but it is a great institution nevertheless.

I know of no man who was more highly respected as a judge than the late Chief Justice Duff, before whom I had the honour, as have other hon. members here no doubt, of appearing on several occasions. There have been few greater minds in any court in any part of the world. Also, I think it is appropriate at this time to pay a tribute to the Chief Justice of Canada, Chief Justice Cartwright, who is to retire I think at the end of this month. He is a great judge and a great gentleman. In view of his imminent retirement, I think it is perfectly proper for me to pay a tribute to him in this House.

The Supreme Court of Canada has been the guardian of the fundamental rights of Canadians. One could refer to a whole line of cases that bears this out. The court brought down what is known as an unofficial bill of rights; it struck out the infamous Padlock Act; it decided against the Press Act of Alberta; in the Boucher case it brought down a judgment which limited sedition to a reasonable scope and prevented charges of sedition being used to suppress fundamental freedoms of speech. In the Roncarelli case a provincial prime minister was required to pay damages for intimidation of the man who was only trying to assist in administration by giving bail to a witness of Jehovah. In a recent case involving only \$10 the Supreme Court of Canada gave leave to an appellant to appeal because the court was of the view that a fundamental right was involved, the right of a citizen to post on his own home an election sign saying, "Vote for Joe Bloe", or whatever the name might be. The Supreme Court of Canada, by a five to four decision, held that what was done constituted an attempt by way of municipal bylaw to infringe on political rights of Canadians. Having been a successful counsel, I naturally think that this was an excellent decision.

Mr. Turner (Ottawa-Carleton): Your client had a perfect right to post his notice, but he showed bad political judgment.

Mr. Brewin: I have said enough to indicate that what we are now discussing, the jurisdic-

Supreme Court Act
tion of the Supreme Court of Canada, is of very great importance. The court itself is most important as a Canadian institution.

Perhaps I ought not to deal with the details of the bill since I can speak on those when the bill goes before the committee. I submit that the provision that applications for leave to appeal must be heard by three judges is excellent. In the Truscott case only one judge made the decision with respect to leave for appeal. I think the Supreme Court of Canada ought to have reviewed the case *ab initio* instead of reviewing it only after great public clamor. I approve of the amendment to section 36 which provides that appeals to the Supreme Court lie on questions that are not questions of fact alone. That makes sense. The Supreme Court, after all, is a most important tribunal and must deal with important matters involving the constitution. It is primarily a court of law and must determine what the law is. I think it is well to allow the lower courts to determine questions of fact as a general rule.

The amendment with regard to habeas corpus sounded very reasonable and logical according to the ministers' explanation, but I shall have to look into it more closely because, after all, habeas corpus is a writ affecting the liberty of the subject and we must examine carefully this ancient right. We know that appeals from provincial courts may be adequate in such matters; nevertheless, I reserve my right to comment on this amendment at a later stage in the proceedings. There is a provision which would allow appeals to circumvent provincial courts, to use the language of the minister, and make the hearing of them depend on leave instead of a monetary limit. That is sound. I entirely agree with the hon. member for Calgary North (Mr. Woolliams) that appeals should not be measured out by the exact monetary amount involved.

• (3:30 p.m.)

We will not obstruct or delay the passage of this particular bill. It is a small bill, a tidying up bill. We not only take this opportunity to pay tribute to the court, but also to say to the minister the court could be even more effective if a thorough job was done in revising this act. By relying on the tidying up processes, there is sometimes a tendency to confuse the unfortunate members of the law profession, because they have to follow all the amendments from time to time. That is not