

*Judges Act*

judiciary as a very important element of our constitutional government in Canada.

I stand behind that provision. I know it is very easy to compare the salaries being paid to judges to the amounts being paid to our senior citizens and to the amounts being paid to our 36,000 unemployed in Nova Scotia under the unemployment insurance program, but I say that there is a principle involved which we cannot afford to overlook if we want a nation that is strong and in which justice is preserved.

**Hon. Elmer M. MacKay (Central Nova):** Mr. Speaker, I listened with great deal of attention to the distinguished speakers who have spoken before me this afternoon and also, I believe, on December 1. Most of them have covered the subjects in which I was interested in pursuing, and it would be pointless for me to go over or try to summarize again what they so eloquently said to this House. I want to assure hon. members that I will not speak for very long, because I recognize the feeling in this House that it is time we sent this bill to committee.

I just want to put on record my own feelings with respect to the judiciary, who are among the most, indeed, if not the most, important members of our society when it comes to preserving the structure of our society. Our judiciary, as the hon. member for Saskatoon West (Mr. Hnatyshyn) pointed out in his speech, has a separate and autonomous power, and pursuant to this a good judge has truly a unique role in our society. Simply put in layman's language, it is to do the right thing.

Sometimes politicians, as much as we might like to think we are doing the right thing, cannot do so for political reasons. Sometimes lawyers, because of their obligations to their clients, cannot do the right thing. But it has become well recognized that the strength of the judiciary is that a good judge can do the right thing. That is the highest mandate which a person can have in our society.

I was interested in the reasoned and eloquent argument put forward by the hon. member for New Westminster-Coquitlam (Miss Jewett) about the efficacy and, indeed, the appropriateness of appointing more women to the bench. I could not agree with her more, but I think that in her approach she may have left a tiny cloud on the judicial ethic by suggesting that women, if appointed to the bench, might tend to favour their own cause because of matters of gender or sex. I am sure that that is not the case. Women have sufficient intellectual capacity and other attributes not to allow this to happen.

● (1620)

One can always refer good-naturedly to the never ending battle between the sexes and say that no one will ever win that encounter because there is too much fraternizing with the enemy. One could also say that from time to time men have justifiable complaints about the dominance which they attribute to women. Of course, with tongue in cheek, for example, when a boy is born people ask about the mother. When a man is married, people exclaim about the beautiful bride, and when a man dies the question asked is how much did he leave? We do not want these kinds of motives involved in our judiciary.

There are now sufficiently large numbers of highly qualified women lawyers who will soon take their place on the benches of this country, whose presence will enrich the whole judicial and legal structure. I am sure the hon. member did not intend to say, by advocating more women on the bench, that this would automatically change to any extent the traditional concept of justice applied to litigants regardless of their gender.

I think judges themselves would welcome a committee taking a look at some of the pension provisions as soon as possible. Most members have mentioned this point. Judges in Canada recognize their need to be held in complete respect by their peers and by the people they judge. Judges would not want, indeed if it were possible, to be in a position which would put them on a different standard, making them unique within the way they contribute to their pensions. We have only to look at other members of our Canadian community, for instance, people in the diplomatic service, the military, the police and others who provide an important service to their country. They have the opportunity, and welcome it, to contribute to their pension plans. I believe our judiciary would want to do the same thing.

Probably when this matter goes to committee there will be real consideration given to some of these matters and to the projections made by the hon. member for Edmonton West (Mr. Lambert) in his excellent speech of December 1. He pointed out that with the provisions implicit in this piece of legislation, as reported in *Hansard* at page 5227, referring to Supreme Court justices:

Their finishing salaries will be somewhere around \$215,000 in 1995.

That figure may be appropriate or it may not, but it would not hurt the committee to have a look at some of the matters which the hon. member for Edmonton West raised. The committee can have the benefit of his long experience in the House and his experience of having practised at the Bar for many years.

I have two or three representations to make to the Minister of Justice (Mr. Chrétien) who is here this afternoon. I recognize that some of these matters involve provincial jurisdiction. I give them to the minister in the hope that some day we may talk about it and he may see fit to refer to them. I have been of the opinion for a long time that there are many disadvantages in appointing people to the bench from a political environment when there are other more qualified people available. I am thinking of people who have never left the practice of law and are therefore more current in their legal thinking and expertise and less politically motivated and conditioned. This is one of the points which the hon. member for Halifax West (Mr. Crosby) raised in his excellent speech. In the future I would like to see fewer appointments to the bench from legislatures and parliaments, including ex-members of Parliament and ex-members of legislatures, until these people have resumed the practice of law for a few years and have been able to update themselves. In this way they would have left an environment which is not always conducive to being impartial.