

● (1620)

[*Translation*]

And so, Mr. Speaker, this bill is meant to grant, for each of the fiscal years 1979-80 and 1980-81, a \$6,500 increase to the puisne judges of the superior courts and a \$7,500 increase to the county and district judges, the difference in the increase reflecting, as recommended in the Dorfman report, the relative importance of the specific responsibilities of each of those two levels of jurisdiction. Those increases respond to the effects of inflation since 1975 and raise the salaries to a level which henceforth will serve as an adequate base for automatic adjustments in the future.

Under the bill, the salaries of the judges appointed by the federal government will be adjusted automatically from April 1, 1981, on the basis of the annual increase in the composite index of economic activities, up to a maximum of 7 per cent. This indexation is the same as the one that applies to MPs. Naturally, should the indexation factor be considered inadequate, the whole mechanism of automatic adjustment will become unsatisfactory, and once again a bill will have to be introduced later on to remedy the situation. In addition to salary indexation starting at an adequate level, the bill provides for the appointment of a commission made up of no more than five members which will be asked to examine every three years the adequacy of judicial compensation.

Since 1975, the pension plan has been another source of malaise in the federal judiciary since only the judges appointed after February 6, 1975, must contribute to their basic annuities under the provisions of the Judges Act. All judges contribute to the supplementary retirement benefits, or indexing. The date of appointment can therefore mean a substantial difference in the salary of judges sitting at the same level in the same court and hearing the same cases. Experience has shown that the system is not necessarily good. Financially, the retirement pension account of judges is not self-supportive because of the relatively short career of the contributors, and it is certainly not beneficial in terms of morale once it has been productive of real grievance on the part of a significant group of judges.

To rectify the situation, Bill C-34 provides that all judges will contribute to the pension plan at the normal rate prescribed by the Supplementary Retirement Benefits Act. This provision will be retroactive to the date of introduction, therefore re-establishing the salary equality of judges. The bill will also readjust the pensions granted several years ago to the surviving spouses of judges. These very modest pensions will be readjusted on the basis of the average of all pensions paid to the surviving spouses of judges.

The bill also aims at readjusting for the first time the allowances granted to judges appointed by the federal government and creating a new allowance to reimburse major representational expenses, such as the price of purchase of

Judges Act

judicial robes and the like that our necessarily incidental to the proper performance of the office of a judge.

Finally, it provides for the creation of several new judiciary positions in certain provinces and both territories to respond to the need.

I am certain that the new salary structure provided in this bill will allay the real concerns of judges that the federal government is not interested in their well-being. Some members may individually or collectively question this feeling or not share the opinion of the government concerning the economic situation of judges. Nevertheless this piece of legislation must ensure a just compensation for judges in order to reinforce the expertise and independence of this essential component of our system of government. By passing this bill we will be doing this unique duty of ours as parliamentarians. As I said, it is in this area only that the Canadian Constitution places on members of Parliament any direct obligation as far as salary and compensation are concerned.

[*English*]

Hon. Ray Hnatyshyn (Saskatoon West): Mr. Speaker, I appreciate the opportunity at long last to participate in this debate with respect to Bill C-34 which relates to the renumeration and the benefits to be paid to judges. As the Minister of Justice (Mr. Chrétien) has pointed out, the matter has been under discussion for some considerable period of time. He rightly points out that the question of the agenda of the House of Commons is one which is in the exclusive control of the government. In other words, they are the ones who decide when matters of importance must be brought forward and the order of priority.

I will not make any further comment with respect to the timing of the delay that has taken place with this legislation, except to point out that it is a government's prerogative to call the business on orders of the day, as we have seen on so many occasions in the past when that right has been challenged.

I want to join with the minister, as he so rightly points out, in underlining the importance of an independent judiciary in our country. An independent judiciary involves a number of considerations, one of which happens to be independence from concerns with respect to the level of remuneration. I should like to quote a statement by Sir William Holdsworth, who is known to jurists and lawyers alike, with respect to the role of judiciary and parliamentary system that we adhere to in Canada. Sir William Holdsworth said:

The judges hold an office to which is annexed the function of guarding the supremacy of the law. It is because they are holders of an office to which the guardianship of this fundamental constitutional principle is entrusted, that the judiciary forms one of the three great divisions into which the power of the state is divided. The judiciary has separate and autonomous powers just as truly as the King or Parliament.

The principle of the independence of the judiciary has been established in common law since the Act of Settlement of 1700 whereby, as opposed to the situation prior to that time, judges held tenure at the King's pleasure, to the point where they could only be removed for serious misbehaviour or conviction