

*Judges Act*

Mr. Speaker, much has been said in this debate with respect to the matter of judges' pensions. I refer in particular to the non-contributory aspects of judges' pensions. I can certainly understand why members and why the general public would complain about increases in judges' salaries, and I can understand even more why they would complain about pension benefits which were beyond those prevalent not only in the public service but in the private sector, with respect to the contributory aspects. That is to say, the judges are not required to contribute to their pension plans and programs in the same way as private citizens and public servants.

● (1610)

Again, I would point out and underline the provision of section 100 of the British North America Act and the point in time when that provision was established and enacted. I say pensions for judges are entirely a different thing. It may well be right and proper to review the pension benefits of judges in light of the current situation in 1980, but at the same time I think it is unfair to take advantage of those who hold a judicial office in Canada by saying that their pension benefits ought to be similar or comparable to pension benefits in the public service or in the private sector when, in fact, there is a constitutional provision requiring the Parliament of Canada to provide pension benefits for judges.

Having said that, I think it is right and proper that this bill and any ancillary legislation that may be required in the future does bring the pension system into a sensible formula so that judges appointed by the Government of Canada can look forward to some security and, at the same time, that the financial program which provides the security be based on sensible economic facts. To the extent that the people of Canada cannot possibly afford as rich a program as is now being provided without some contribution, and to the extent that the judges of Canada realize the need for contributions, I think the provision is justifiable and a step in the right direction. However, I do not think it is a step that needs any greater justification than that Parliament is fulfilling its responsibility under section 100 of the British North America Act, to provide pensions for judges.

Let me deal very briefly with the need for more judges. No one who practises before the courts of Canada is unaware of the workloads now experienced by most of those courts in all parts of Canada. It is well known that justice delayed is justice denied, and the failure of the courts of Canada to deal expeditiously with the cases which are brought before them causes injustices to our citizens. That is not a matter which can be smarmed over and not regarded by the Parliament of Canada. It is our obligation to ensure that the judges of Canada are sufficient in number to provide justice to those who come before them, not only in the final analysis, which is in terms of the letter of the law, but in terms of the speed with which a decision is reached.

I personally have experienced delays before the courts that I believe have led to injustices. The excuse was always given that the workload of the judges was too great and that more judges

were required. That is not a matter which any of us in this House can deal with individually. It has been represented time and again that more judges are required. So any method to increase the number of judges available to work in the courts and provide the justice which is required by so many people, ought to be very carefully considered by this House and by the people of Canada.

There is one aspect of the appointment of judges which must be brought to the attention of this House, and that is the allegation which is made, with some merit, that the appointment of judges in this country involves political partisanship. I do not know how one changes this practice which has gone on probably since the beginning of Canada, but it is certainly a practice that ought to be changed. I do not mean that it should be changed through any token references to the Canadian Bar Association or token appointments of persons whose political faith is different from that of the government in power. I mean that it should be changed by some sensible method which would provide judges across this country whose qualifications are recognized by all those who are knowledgeable, and accepted by all those who come before those judges, and whose qualification is not the political party with whom they had been associated in their pre-appointment life.

I have spoken and had the occasion to make this representation to the Minister of Justice, and I asked him to consider the establishment of some group, body, or organization representing all the people of Canada—not the lawyers of Canada and certainly not the Canadian Bar Association—who would pass some judgment on proposals for judicial appointments. I think it is a great failure of our system—and I do not mind saying it here because I have said it in many other places—that we do not have greater control among the public over the appointments to our superior courts. I say very simply to the Minister of Justice that such appointments should be made with the approval of the people of Canada. I do not have any special objection to the minister as a person, but I do not think he should wield that kind of power in this country, and I think that because there are matters of grave public importance which come before the courts.

Right now we in the province of Nova Scotia are vitally concerned with the question of ownership of offshore resources which the Government of Canada has seized and taken away from the province under the oil and gas legislation which is now before the House in the form of Bill C-48. That matter may have to be decided by the courts of Canada and, if so, we want definite assurances that the members of that court do not hold any political allegiances which might affect their judgment.

Let me say, in closing, that while there are many provisions of this bill to which members of this House have raised very legitimate objections, there is in this bill the provision which I think will help ensure a truly independent judiciary in Canada. It is the pith and substance of this bill, and it ought to be given the most important consideration in this House, and that is that our concern ought to be for the independence of the