

Judges Act

has a general idea not only of the competence, but also of the ability of the candidates to do the work well.

It has often been said, and the hon. member for Charlevoix (Mr. Asselin) mentioned it a little earlier, that in several judicial districts of the province the calendar is several years behind.

I wish to point out the number of judges coming under the exclusive provincial jurisdiction. I should like particular attention to be given to this problem, in order to avoid the almost continuous appointment of judges to royal commissions, which relieves them of the obligation to hear and judge cases, so that during periods of six months, a year, or even several years, a judge cannot sit and perform the duties to which he was appointed. These are the comments I wished to make.

I also wish to add that, on the whole, the public has a great respect for the judiciary, and I respectfully submit that the recently created superior council of the Judiciary, without usurping any authority, could be very helpful to the hon. Minister of Justice in choosing candidates who will have the extremely serious and important task of handing down justice.

[*English*]

Mr. Scott (Danforth): Mr. Chairman, I want to say a few words in support of the position taken by my colleague from Burnaby-Richmond and by other members in all parties. I had thought the minister might have risen and responded to the pleas of hon. members. What we are doing is trying to raise a problem which has given a great deal of concern to members of the bar in all parties and in all provinces, and I believe we can do so without casting aspersions in any way on the persons who are now part of the judiciary.

As the minister knows, the whole method of appointing judges, though it does produce excellent members of the judiciary, has always seemed to put them on the bench under a cloud because the method of appointment is such that it is easily open to the criticism of political partisanship. Even though we do manage to choose excellent people to put on the bench, by following this procedure we start them out under a cloud of political partisanship. That to me seems unfair because I am sure the objective of the Minister of Justice and of all hon. members is to get the highest possible calibre of people on the bench and to divorce them as much as

[*Mr. Laflamme.*]

possible from any suggestion of partisanship so that their reputation for impartiality will be unchallenged.

I hope the minister will realize we are quite serious about this problem. He might indicate to us before passage of this bill whether or not his tenure as Minister of Justice will be marked by a departure from the old system and the introduction of another method which will meet those fears respecting a cloud surrounding the judiciary because of the method of appointment.

As the minister knows, the Canadian Bar Association has passed resolutions on two or three occasions recommending that appointments to the bench be made on the basis of merit only without any political consideration being involved. This started as far back as 1949 when the annual meeting of the association in Banff suggested to the then minister of justice that the government consult with a committee to consist of the chief justice of the province, the chief justice of the trial division and representatives of the benchers of the law society in the province before making any appointment to the bench of that province.

In 1965 the *Canadian Bar Journal* carried an editorial suggesting the appointment of an independent body to which the minister might refer in connection with judicial appointments. Of course, such a committee could not dictate to the minister. No one would suggest that, but some consultation should take place.

In 1965 the Canadian Law Teachers Association undertook as one of their principal concerns a study of the whole question of the administration of justice with particular reference to the appointment of judges. My colleague from Burnaby-Richmond has already mentioned an article by Professor Angus, which was framed in pretty colourful language but which raised serious concern on all sides and, of course, those great organs of journalistic authenticity, the *Toronto Star* and the *Toronto Telegram*, have carried numerous articles and editorials dealing with the problem.

• (4:00 p.m.)

I suggest to the minister that he devise a formula whereby in each province a committee can be established, composed of the vice president of the bar association, the treasurer and some other member of the law society, the chief justice of the province and the chief justice of the trial division of the Supreme Court of the province, and that the minister