

I know very well what Senator Choquette was speaking about, as I was a member of the committee involved in the case to which he referred. The establishment of the Canadian Judicial Council is obviously a reaction by the Government to the problems we experienced during that time.

Far more important than any question of remuneration of judges or their widows is the question of the independence of the judiciary, and the problems that are apparent to us, including the situation to which Senator Choquette referred.

We must examine this bill, although I myself have not done so, to be absolutely positive that under no circumstances can a political officer such as the Minister of Justice dictate the dismissal of a judge. That in my opinion, is the crux of the problem involved in this concept of the judicial council, and it far transcends any question of salaries.

As I mentioned a few moments ago, I am afraid that I have not made a study of this bill, but when it goes to committee we must assure ourselves that under no circumstances can a political officer such as the Minister of Justice bring about the dismissal of a judge by means of influence directly or indirectly upon the judiciary, or upon any of the machinery set up by this act.

That is really the only concern that we have as a body. We must maintain our great legal tradition of independence for the judiciary, and at the same time devise some means more equitable than those which have existed in the past, by virtue of our Constitution, whereby a judge considered unsuitable to continue holding his position may be removed. I do not know whether this bill does, in fact, accomplish that purpose, but if I had to take a risk on one side or the other, I would take the risk of a judge being incompetent before the risk of subjecting our judges to political pressure for their removal.

I hope that by saying these few words tonight I have brought to the attention of the members of the committee who will be considering the bill what is, in my opinion, by far the most important issue involved. I hope that in committee we can assure ourselves that this purpose is achieved.

**Hon. David Walker:** Senator Lang has raised a point which is fully covered in section 31, which establishes the Canadian Judicial Council. This was ably and fully explained by Senator Cook, and commented upon with equal ability by Senator Choquette.

Section 32 sets out the duties of the council after it has been set up. The section is complete and thorough, and I cannot see how it could be improved.

Section 33 answers the question of the honourable senator. It provides that after an inquiry by the Canadian Judicial Council has been completed, the council shall report to the Minister of Justice. Without going into all the lengthy detail, section 33(3) provides:

A judge who is found by the Governor in Council, upon report made to the Minister of Justice of Canada by the Council to have become incapacitated

or disabled from the due execution of his office shall, notwithstanding anything in this act, cease to be paid or to receive or to be entitled to receive any further salary if the Council so recommends.

To answer my friend's question—although I am not the Minister of Justice, and perhaps I should not be pleading the case for the Government—this section makes it quite clear that the Canadian Judicial Council reports its conclusions, the Minister of Justice considers them, and the Government then considers the recommendation of the Minister of Justice which is based on the report of the Canadian Judicial Council. Therefore, politics cannot possibly enter into this matter.

**Hon. Mr. Lang:** May I ask my honourable friend a question? Section 32(1) provides that the instigation of the inquiry rests with the Minister of Justice, and not with the Council. I am wondering whether the reverse would hold as well.

**Hon. Mr. Flynn:** It has to be on the basis of a report.

**Hon. Mr. Walker:** Section 32(1) says that the council shall commence an inquiry at the request of the Minister of Justice. I think that is perfectly logical and perfectly natural. According to section 32(2), the council may investigate any complaint. The council, comprised of these distinguished judges, including the Chief Justice of Canada, could not be expected personally to search for these matters throughout the judiciary of Canada. It has to be someone like the Minister of Justice who hears of them, and makes the request to the Canadian Judicial Council. In my opinion, in view of the fact that the Canadian Judicial Council is going to decide on these matters, it makes no difference how prejudiced a Minister of Justice might be. He would not dare make a recommendation that did not have some foundation in fact. That would be a very bad precedent for him to set, and his motive would at once become obvious if the Canadian Judicial Council made a finding that there was no merit in his suggestion.

It seems to me that this matter is thoroughly covered. First, the Minister of Justice receives a complaint, which he then considers—

**Hon. Mr. Benidickson:** Or the Attorney General of a province may receive a complaint.

**Hon. Mr. Walker:** Yes, it is more likely that such complaints will be to the provincial attorneys general.

Let me say to honourable senators that this is a splendid bill, and it is a year overdue. The salary increases are overdue. The ideas of the supernumerary judge and the Canadian Judicial Council are excellent. The bill speaks for itself, and I would respectfully suggest that it be passed without reference to a committee.

**Hon. Eugene A. Forsey:** Honourable senators, I am going to ask only one question about this bill. If the sound apparatus here had been functioning adequately a little earlier, and I had been able to hear all of Senator Cook's remarks, I might have heard my question