

that have arisen out of the rates question. It is a difficult question; it is one which should rest exclusively with the board of transport commissioners. Unfortunately it has got beyond the bounds of that jurisdiction and has invaded the realm of politics, and we are now asked to countenance the appointment of a judge to find a solution to this political problem. I make bold to suggest that the price to be paid for such a solution is too high. The position of the judiciary is too important to be impaired by the exigencies of any political situation. There is no other reason for the present proposal than that of bringing to a political difficulty the appointment of a judge as presiding officer over the tribunal which would have to deal with that difficulty.

In the past, judges have been appointed to the board of transport commissioners and to the bodies which preceded it. I think that the first and one of the most famous of its presiding officers was Judge Mabey; but the moment he accepted that office he ceased to be a judge. If anybody will tell me why a member of the board of transport commissioners should continue to be a judge when he has become a member of the board of transport commissioners—unless it be to carry into his new calling the benefit of his high judicial reputation; unless it be to bring to that office the respect and ascendancy of the bench—I fail to see it. Solely out of respect for the bench, and solely for the purpose of maintaining and preserving one of Canada's rarest treasures which she has inherited from the old land—where judges do not accept offices of this kind; where it would not be tolerated that they accept such offices—I ask that no judge, however able, be made a member of this board. There is no question about the ability and the integrity of the gentleman whose name is mentioned here. He is a man of highest ability, a man for whom everybody has the greatest respect, and there is no reason why he should not enter upon a new field of activity on his own merits without carrying into it the judicial ermine in the hope that it will cover up some of the partisan difficulties that arise out of the very nature of the questions which go before the board of transport commissioners.

Mr. ILSLEY: Mr. Chairman, I should like to reply to my hon. friend immediately, because I disagree with him. He imputed views to me which I do not hold. The hon. member for Stanstead is greatly attached to the view that he has expressed today, that judges should rarely, if ever, be appointed as heads of royal commissions, or discharge extra-

[Mr. Hackett.]

judicial duties. I have said repeatedly in the house that I think there are times when the appointment of a judge to discharge these extra-judicial duties is quite appropriate.

Mr. HACKETT: Will the hon. member permit me? I agree with that. There is work that they can do and do it with advantage, such as the recodification of the criminal code, for instance. But what I object to—and I do not want there to be any misunderstanding—is the appointment of judges to decide questions which are highly tinged with politics.

Mr. ILSLEY: Let us examine this argument. I cannot deal with it conclusively because the issue arises from a difference in point of view. But my hon. friend said repeatedly that these judges who are appointed from time to time are appointed for political purposes, to solve political problems of the government. That sounds like a very damaging accusation; but after all, what are political purposes? When you use the word "political" I know that the first reaction of the public is that there is something discreditable about purposes if they are political purposes. But that is not the meaning of the word "political". The word "political" has a very high significance. Often judges have been appointed in the past because the state of the public mind was such, the worry in the public mind was such, the fear of wrongdoing was such, that there must be, and there ought to be, in the interests of the functioning of a democratic state, a finding by a person for whom the public had respect. That has been the reason for the appointment of judges.

My hon. friend may say that that is meeting a political need of the government; that is a political purpose that the government is carrying out. Well, if so, it is a high purpose; it is a worthy purpose that the government is carrying out when it appoints judges under conditions of that kind.

My hon. friend says that the government is trying to avail itself of, or benefit by, the high reputation of the judge. He should have added one other word. The quality of the judge that is so important in these things is the quality of independence. Take this very case, the appointment of an exchequer court judge to be chairman of the board of transport commissioners. He has what is virtually a life tenure—tenure until he is seventy-five years of age. He can do what he thinks and believes to be right without any dictation from the government. That is a strong reason for appointing him.

My hon. friend did not point out any deleterious or injurious effects which would flow.