

draft codes, to consolidate and revise statutes, and perform other tasks for which their training and sometimes their leisure make them apt candidates. To the extent that these tasks are paid for, they are subversive of the principle of independence which is the bed-rock of our whole judicial system. If a judge is to receive remuneration in excess of his statutory compensation, which has been horribly inadequate for generations, he is beholden to the body paying him, be it the political party in power or be it a labour union or employer who commands his services. But if the practice in the form to which I have just alluded is reprehensible, it becomes more objectionable when judges undertake tasks highly pigmented by politics.

It is impolitic for a practising barrister to say anything which might be construed as criticism of the bench. It is most unfortunate that stern necessity imposes on me the duty of pointing out the dangers to the greatest of our institutions inherent in this practice. I do not accuse the government in power of being the sole offender, but circumstances have made it the most frequent and the most recent offender. Whenever it has had a difficult problem to solve, whenever it is confronted with a perplexity, it has pulled members of the bench down into the dust of the political arena in quest of a solution acceptable because of the high authority and so far unimpeached integrity of the bench.

I say with sorrow that the reputation for impartiality, dignity and honour enjoyed by the bench has been exposed to criticism by this practice. All who believe in the law, who depend upon its fearless administration, and admit that the people at large must have complete faith in the integrity of the judiciary, must oppose the continuance of this practice.

If it is necessary to refer labour disputes to the judiciary, let us set up a "labour court" and name a judge for that purpose. At the present time, in the clubs, in the market place, wherever men meet and discuss, one hears a judge classified as "favourable to labour," another as "favourable to the interests," another as "weak and not knowing exactly which side he is on."

My language may seem strong. As head of the bar of Montreal I made a mild protest a year ago last May. As a member of parliament I condemned this practice in the house less than a year ago. The hon. member for Lake Centre (Mr. Diefenbaker) dealt with it at length nearly two years ago. Still the practice continues. It is because I believe in the rule of law, because the rule of law cannot be

maintained unless the bench be free from all taint or suspicion of partiality, that I speak as I do. Either we have too many judges, or they are neglecting their judicial duties, if they can devote as much time as they are at present devoting to work beyond their statutory duties. In many parts of the country judicial work lags, litigants suffer, while judges are engaged in tasks foreign to their function.

I take from the English *Law Times* remarks of Lord Esher when responding to a toast to the bench. His words are exceedingly appropriate to the present abuse. Speaking of a certain judge, he said:

Their education—

Referring to the bench.

—and training made them impartial and determined to do what was right in any question that came before them. This, indeed, was so well known and recognized, and when the judges of England acted within the scope of their ordinary duty, nobody ever attempted to suggest that they were not impartial. At the present time, however, they knew that one of the judges had been asked to go beyond the scope of his ordinary duty, and he, for one, was surprised and sorry that the judge in question had consented to do so. The result was inevitable. That judge had been fiercely accused already of partiality or of want of desire to do justice.

There is no excuse for the government to appoint judges to work beyond their judicial function. It should sternly deny them the right of undertaking such duties for provincial governments or other bodies.

I hope, Mr. Speaker, that when the promise of the Minister of Justice has been carried out and the judges are finally given adequate salaries, they will be able to decline invitations which lower the repute of their high ministry and which tend to undermine public confidence in the bench.

This practice has now become one of almost daily occurrence. I understand why the government refers these questions to judges. It is because the people of our country still have confidence in the bench. But if these problems which are beyond the judicial function are to be submitted to the judiciary, we are taking the hazard of losing one of those institutions upon which we rely and one of the institutions which has brought the greatest glory to our country—the rule of law and the unimpeachable integrity of the bench. I therefore hope that the minister will exercise his power and great influence to discourage this practice. There are men learned in the law who are not on the bench, men eminently suited for the tasks which are so frequently being allotted to judges. Let us have recourse to them. Let