

*Supply—Justice*

appealed to the law officers of Scotland for an inquiry, and produced seventeen witnesses to support John's charge. But the lord advocate, backed by the secretary of state for Scotland, ruled that their own investigations did not justify further inquiry.

*Winslow Boy?*

The Waterses found a powerful defender, though, in the Conservative M.P. from their own district—

And all credit to him.

—Sir David Robertson. Impressed by the boy's references, which he said were "far better" than his own would have been at that age, Sir David pressed the matter relentlessly in parliament, and gradually gained the support of nearly 200 fellow members. The British press took up the case, comparing Waters to George Archer-Shee, the naval cadet whose exoneration in the courts 50 years ago on a charge of stealing had recently served as the basis for Terence Rattigan's play "The Winslow Boy".

Last week, Prime Minister Macmillan temporarily cast aside the great affairs of state—Cyprus, Germany, his own trip to Moscow—to tell the house that he had personally investigated the Waters affair, and decided, in view of the "grave public disquiet" that a high judicial tribunal should probe out the truth.

Cheers from both benches greeted his announcement. Parliament passed the government notice unanimously. A three-man tribunal, appointed by the government, will soon meet in Edinburgh to establish just what happened on the night of the alleged assault, and what the police did about it. Commons would then decide on the next step.

In all, Britain's parliament had spent 90 minutes discussing the private grievance of one red-cheeked errand boy who had gotten himself into trouble. But few M.P.'s regarded this as time ill spent. Macmillan spoke for most of them at the end when he said, quietly, "It is encouraging to feel that at a moment when our minds are filled with the great problems between nations and vast political issues... we should turn to try to do justice to individuals."

It is on that account that the mother of parliaments retains the respect it does throughout the commonwealth and throughout the world.

Mr. Chairman, in proceeding with my brief remarks, the statement I wish to read, which is a portion of a television program, contains some criticism of justice in this country and judges. I might say in that respect that members of parliament have the same rights as individuals to criticize the courts and to criticize justices. I want to quote briefly first of all an excerpt or two which have been brought to my attention to support my contention. We find that Lord Russell in the Queen versus Gray, 1902 Queen's Bench, page 35 at page 40, said:

Judges and courts are alike open to criticism, and if reasonable argument or expostulation is offered against any judicial act as contrary to common good, no court could or would treat that as contempt.

Mr. Justice Duff in the Alberta Bill case said:

It is illegal to interfere with the right of public discussion as to substantially interfere with the parliamentary institution of Canada.

[Mr. Herridge.]

Then I noticed quite recently in the March 16, 1959 issue of *Newsweek* the following opinion expressed by Mr. Justice Black of the United States supreme court:

Back in 1898, Mr. Justice Brewer stated in an address that many criticisms may be "devoid of good taste, but better all sorts of criticism than no criticism at all".

In 1941, Mr. Justice Black said in writing for the majority concerning a contempt case against the *Los Angeles Times*: "The assumption that respect for the judiciary can be won by shielding judges from published criticism wrongly appraises the character of American public opinion... an enforced silence, however limited, solely in the name of preserving the dignity of the bench, would probably engender resentment, suspicion, and contempt, much more than it would enhance respect."

Dissenting in the same case, Mr. Justice Frankfurter nevertheless said: "Therefore judges must be kept mindful of their limitations and of their ultimate public responsibility by a vigorous stream of criticism expressed with candour however blunt."

The late Mr. Justice Jackson wrote in "The Supreme Court in the American System" that "criticism by the profession" is one of the important criteria in appraising a decision's "real weight in subsequent cases".

The court is a responsible, human institution. To elevate it above criticism would be to create a tyranny above the law and above the government of which it is a part.

Mr. Chairman, as I said in opening my remarks, I have had discussions with the person who considers himself victimized and as having suffered an injustice. I have had discussions with a number of responsible and quite well known citizens in Montreal with respect to this case. I have read masses of correspondence. I have a large file concerning this matter and I have gone through it very carefully, and you will readily understand, from the point of view of the layman, that it is very difficult to appreciate the finer points of the law. But after those discussions and conversations and reading extensively and listening to the representations of well known responsible people from Montreal, I have come to the conclusion that this gentleman suffers a measure of injustice, and at the request of the people concerned I am bringing it to the attention to the minister in the house.

To make it as brief as possible, I am simply going to read an extract from a television program that was given in connection with this case in Montreal. I might say that before doing that, after the television program was given, which was on, I think, November 3 of last year, the gentleman in question intended to give it over the C.B.C. and he submitted the text to a lawyer. I would now like to quote from the *Gazette*; I am not sure of the date, but I have a cutting here:

He said he submitted the text of his speech to his lawyers before the telecast and was assured