

I wish to make one point. We talk about independence; let us be realistic about it. It seems to me there is one way in which we can get the independence the minister wants, without transgressing the principle the hon. member for Stanstead has outlined.

Let us not fool ourselves about judges; let us not believe that they are a separate order of creation or that they are not moved by the same feelings as those by which the rest of us are moved. We must not allow ourselves to get into that state of mind. No one has more respect than I have for judges; nevertheless I understand it has been the practice, one very regularly followed, that judges are not promoted from lower positions in the judiciary to chief justiceships. Why? It certainly was the practice for a long time in Ontario, as I understand it. One reason was that they did not want to tamper with the independence of judges—among other things, by placing a judge in such a position that he might have to seek to ingratiate himself with governments. Surely that is a creditable and well-recognized principle. It acknowledges that judges are human like the rest of us, and that we have to seek in every possible way to avoid lessening their independence. What are we doing here? First of all it seems to me that the general principle outlined by the hon. member for Stanstead is sound, that we should not have plums floating about for judges. I am being blunt about the matter, because we must regard them as ordinary human beings. Let us not fool ourselves; judges are like the rest of us, and they would like to have substantial additions to their incomes in special jobs which turn up.

It seems to me that what we are doing here is something which is far worse. As I understand it a continuing plum of a very substantial nature will constantly be held out before the judges of the exchequer court. The business of the judge of the exchequer court, in the main, is to decide between the government and the individual. If I understand the position correctly, being human he cannot entirely get it out of his mind that if he is a good boy and very highly and favourably regarded by the powers that be, the time may come when he may get a very important position.

Is there any way out? I suggest there is a simple way out—and I still hope the Minister of Justice will consider it. My suggestion is almost exactly in line with that of the hon. member for Lake Centre, although it may differ in one important detail. The law is that we can appoint a judge. No one questions that.

Mr. ILSLEY: You do not have to.

Mr. MACDONNELL (Muskoka-Ontario): Let me make this clear; I do not question the appointment of a judge. But as the hon. member for Stanstead has said, if a judge is appointed let him resign from the judiciary, and then attach to this office a proper pension. Public opinion would surely approve a proper pension, so that a man could take it and be independent.

Mr. ILSLEY: It would not be sufficient unless you gave the office life tenure, or a tenure to seventy-five years.

Mr. MACDONNELL (Muskoka-Ontario): If the minister will allow me, I do not see why you need to give life tenure. I am impressed by the argument against it, but usually if he has the full ten years and is eligible for re-appointment, and if he is a good man, he is reappointed.

Mr. KNOWLES: A good man or a good boy?

Mr. MACDONNELL (Muskoka-Ontario): I come back to this thought: It seems to me we do not need to follow this plan, which I think has certain evils in it. The only disadvantage in following my plan is that it may cost us a little more money. I do not like to suggest the expenditure of additional dollars, but I certainly think it would be very much worthwhile; and I suggest, before I take my seat, that the ten-year appointment, subject to reappointment—and I think that might have been done; it happened in the case of Judge Mabee—would meet the objection of the hon. member for Stanstead.

Notwithstanding the eloquence of the Minister of Justice I do believe that there is a great deal of evil there, and that the very independence which he himself so rightly emphasizes is in danger of being challenged.

Mr. ILSLEY: I just wish to say a word about the first part of my hon. friend's remarks, that there are plums floating around here for exchequer court judges. It sound persuasive. But bear in mind the fact that the exchequer court judges are sometimes promoted to be president of the exchequer court; at least they are eligible for promotion. Judges of provincial appeal courts are continually being promoted to the position of chief justice of the appeal court; members of appeal courts in the provinces are often promoted to be judges of the Supreme Court of Canada and members of the trial divisions in the provinces are continually moved to the appeal divisions. While greater financial remuneration is involved, these positions are regarded by most of them as more desirable appointments.