

the bench is only for men who can lay aside their feelings in such matters. Now, Mr. Speaker, that being the question I shall vote that this matter be enquired into, and if we adopt that course we shall first of all do Judge Elliott justice, if it is found to be incorrect; and we will do him justice if it is found to be correct, because he himself will understand that it is better he should be brought to justice now than that he should be allowed to go on in the same course and do worse.

Mr. McDONALD (Victoria). Mr. Speaker, I think that the hon. member for West Lambton (Mr. Lister) and the hon. member for North York (Mr. Mulock) might be excused for the remarks they have made, because they had taken an active part in the election in question, and they were no doubt greatly disappointed at the result, and want in some way to lay the blame of their defeat on Judge Elliott on account of the decision which he has given. I thought that the hon. member for Guysborough (Mr. Fraser) coming as he does from the sea, would be somewhat cooler and would advance us some arguments upon this point in order that those who are willing to deal fairly in this matter would be enabled to vote intelligently on the question before the House. If there was anything wanted to show to the members of this House that this motion should not be entertained, the address which we have listened to from the member for Guysborough (Mr. Fraser) would have furnished it. The hon. gentleman of course told us that the object of this petition was not to discuss the characters of the parties who signed it, nor of the great moral question which he says has been brought forward by the member for North Norfolk (Mr. Tisdale), but simply that the question was to see whether or not by the decision of this judge, a member was sitting in this House who had no right to sit here: that is, if the decision of Judge Elliott gave a certain number of votes to persons who had voted for Mr. Carling, then of course the matter must be pressed. I am sure that any person listening to the hon. gentleman must have come to the conclusion that this is what he meant. Then the hon. member for Guysborough (Mr. Fraser) told us that the judges in Nova Scotia were so pure that they would not give a decision in favour of the Conservatives, but would rather lean towards the Liberals. I have not that opinion of the judges in Nova Scotia, nor do I believe that any person practising before the bar of that province ever thought that any of the judges in any manner whatever undertook to give a decision against his friends in order to win a reputation of being considered impartial.

Mr. FRASER. I wish to correct the hon. gentleman. What I said was that I knew them to be so particularly careful that if there was any leaning it was considered to be on the side of their own political friends. I did not say anything in reference to their giving judgment.

Mr. McDONALD (Victoria). The hon. gentleman may qualify his statement now, and I am quite willing to accept that as what he meant to say. I am sure he would not wish to misrepresent the judges in that way. Coming back to the question before the House, I really cannot understand how gentlemen opposite seem to mix up the facts in regard to it. I believe it was some time in November or October that Mr. Lilley, of London, had under-

Mr. FRASER.

taken to give notices objecting to 500 or 600 names on the voters' lists. In sending out his notices the only objection that he made to the parties on the list was simply the words "not qualified," and when they appeared before the revising barrister, objection was taken to the form, and the revising barrister allowed him to amend. I wish to draw attention to the amendments which were made, and which were simply to state "no income within the statute," not "owner within the Act," or "not tenant within the Act." These were the amended notices which were sent out to these various parties. The matter was then brought before Judge Elliott, and I think every one in the House will agree that it was brought up rather immaturely. There was no decision given as to whether the names should remain on the list or not, and I believe that in reading the statute every person must come to the conclusion that Judge Elliott had no power to decide with regard to anything the revising officer had done, either in reference to amending the notices or extending the day for hearing. Judge Elliott then so decided, but he intimated strongly that he believed that the notices were invalid and were not capable of being amended. The judge clearly says this, and in so far as the decision went, it was in favour of those who appealed from the revising officer, but he believed that he had no power at that time to deal with the matter. The judge gave his decision and it was the same as he gave afterwards, and from which he did not recede in any way from beginning to end. These proceedings as the House is well aware came before the Court of Queen's Bench by a motion for a mandamus to compel the revising officer to proceed. I believe that in the mean time the revising officer acting upon the suggestion or hint thrown out by the County Court judge, declined to proceed any further with these names or to pay any attention to the amending notices which he had ordered to be given himself. Now, I find that a mandamus was applied for. I have the Ontario report, and there was no written decision. The judge simply said that the notice was sufficient, and no appeal is given by the Act from the County Court judge. The Court of Queen's Bench decided in the same way. But when we come to the decision that was given by Chief Justice Hagarty, I think we shall find that the revising barrister, the County Court judge and the chief justice were not so very far apart; and I believe that following the decision of Chief Justice Hagarty and Mr. Justice Burton, a large number of those names that were struck off by the revising barrister would still have remained on the list, and the original notices and the amended notices would never have touched them. Chief Justice Hagarty, in his decision, says:

"We cannot obtain much assistance from English authority as to the requirements of a notice of objection. The statutes differ much from ours in this respect."

Further on he says:

"The notice to him merely stated that it was objected to, his name being retained on the list of voters for the south-west division of the County of Lancaster. That was held by the court to be insufficient, as the column of the list on which the objection was grounded was not named, which specially referred to county voters on a new franchise. The general Act had also to be considered."

Then he goes on to say:

"Our Act does not draw this distinction, and I do not think we can hold these amended notices insufficient. They specially attack the voter's interest, that is his posi-