produce such documents and things as the commissioner or commissioners deem requisite to the full investigation of the matters into which they are appointed to enquire."

Now, when Parliament has deliberately chosen a way which may be adopted in trying a County Court judge for misbehaviour, and when ten years of usage have indicated the elementary stages of that procedure, what good reason is there for departing from this usage and here and now dragging the name of a judge before Parliament and leading Parliament into an acrimonious discussion which, as I said at the outset, does little to maintain the dignity of Parliament, and may do much to lower the dignity of justice? The existence of such a statute indicates the deliberate intention of Parliament that such matters should be enquired into outside of Parliament. The third sub-section that I have quoted clearly does not contemplate this being done by Parliament at all, because the fact that all the evidence and papers are to be laid before Parliament early in the next session, indicates that this must be done, as it were, behind the back of Parliament. So I say that the existence of the Act, and the reading of the third sub-section indicate that the trial of County Court judges should be had in another way, and that the preliminary enquiries should be conducted in some more guarded and quiet manner than can be expected in a discussion in this House. Further, we find that, when our constitution was drafted, there was put in a section which is numbered 99, which says:

"The judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons."

It is noticeable that, in that section, the judges of the County Courts are not named, and, when we remember that this Imperial statute was only the crystallization of the regulations which were drafted by Canadian public men, the omission is more significant. To make that more apparent, I would call attention to the fact that the Quebec resolutions which were the precursor of the British North America Act, contained this provision in the same words. Article 37 of the Quebec resolutions uses the same language:

"The judges of the Superior Courts shall hold their offices during good behaviour, and shall be removable only on the address of both Houses of Parliament."

At the union of the provinces County Courts were established in at least two provinces. The framers of the Quebec resolutions were familiar with these facts. The distinction between County Courts and Superior Courts was well established and commonly observed. Therefore it was the purpose of the British North America Act, to distinguish between the Superior Court judges and the County Court judges. Parliament took control of the Superior Court judges, or rather the Senate and the House of Commons took control of them, and the Imperial Parliament guaranteed them a tenure of their offices during good behaviour, subject to an address by the Houses of the Canadian Parliament. But it did not give power to the Senate and House of Commons to remove the county judges. As to whether the power to remove a Superior Court judge involves the power to remove a County Court judge, there is at least much doubt. If you say that the omission of the words "County Court" in Section 99 of the Constitution Act is insignificant or is an accident, I would answer, the burden rests on him who takes that point to prove it. I would now direct the House to another aspect of the case. I would call attention to the fact that in the mother country, where Parliament has power to remove the judges by address, the greatest care has been taken to protect the judge in the preliminary proceeding, and to see that no injustice is done him, and that neither his reputation nor his cause is prejudiced in any way, I will read a case from the English *Hansard* bearing on the one we have before us, the case of Sir James Scarlett, who was then, I think, Lord Abinger, who was tried on a charge of having used intemperate political language in addressing both the grand jury and the petit jury in reference to a case before him. He was accused of having used the language of an extreme Tory, and his conduct came under review before the English House of Commons. Lord John Russell spoke on the subject of that judge's conduct, and I will read what he said in that debate. The case is reported in *Hansard*, Vol. 66, page 1071. Now, take note, the judge was charged with having on the bench used the language of a violent political partisan. The attack was made by Mr. Thomas Duncombe, a famous man at that time, some 40 years ago. He said that Lord Abinger had spoken from the bench in terms that were more appropriate to a politician than to a judge. The Attorney-General, Sir F. Pollock, defended the conduct of the judge, and said:

"It is in fact an admitted principle that no Government should support a motion for an enquiry into the conduct of a judge, unless they have first made an investigation, and are prepared to say that they think it a fit case to be followed up by an address for his dismissal."

There was a case where a charge was brought before Parliament, and where the English Parliament undoubtedly had power to remove a superior judge by an address from the Lords and Commons, and in that case so cautious was the English Parliament that the Liberal leader, although stung by the conduct of the judge, nevertheless saw fit to lay down that rule that I have read. Again, in the same debate, Lord John Russell objected, "that Lord Abinger had spoken both as a politician and as a lawyer, when he should have spoken as a judge;" but nevertheless he said:

"He regarded the independence of the judges to be so sacred that nothing but the most imperious necessity should induce the House to adopt a course that might tend to weaken their standing or endanger their authority."

Now, I would be content to stop here and say that these statutes, and these decisions, and these judgments are at least some reason for supporting the position I took up at the beginning, that the better practice for us to pursue was the old practice, and that the better way for the hon. member for West Lambton would be to put his charges in the hands of the Minister of Justice and ask him to put these before a commission with the result that whether the charges were proved true or not, the case will again come later on before Parliament. The hon. member for West Lambton cannot say that this is giving him no chance, that the Ministry of the day will be guided by partisan considerations. If they are, they are blameworthy, and if they have not discharged their duty under oath, their conduct must come before this House for criticism, and the member then has not only his right, but it is his bounden duty to make his statement. While on my feet I would like to say a word, not making any