

opinion of our Supreme Court judges, rank higher than their own decisions, although they do not always follow them. You might as well say that where there is an English decision and our courts, though not bound by them, do not follow them they ought to be impeached, as to say that Judge Elliott ought to be impeached on that branch of the case. Now, what did the judge do, and what was his position? For these are pertinent matters for the laymen of the House who do not understand the law. Let us look at this matter in a manly, fair-minded, non-partisan spirit, with a sense of the high duty imposed upon us of protecting the judges of the land, while they act honestly and fairly and in accordance with their oath. It is of the greatest possible importance to this country that a judge who acts fairly in a proper case should have the protection of Parliament. What was his position? Challenged by the partisan press of London before he gave judgment and by the language of the hon. member of this House to whom I have alluded to dare to pronounce judgment in the same way as he had done before; and confronted with the conflicting decisions of our Superior Courts and by the decisions of the English courts, what did he do? He did what an honest man and an upright judge would do. They would not allow the case to go on to the Supreme Court; and remember, at this time the time for the protest was not up. They insisted on having judgment there and then; and with this uncompleted appeal, which could have gone to the Supreme Court where the whole question could have been decided by our highest tribunal, Judge Elliott said: I have to act on my own responsibility, here are these conflicting decisions; I have sworn to give judgment honestly according to my conscience; the responsibility is thrown upon me; I will hear your arguments and decide; and by a well-reasoned judgment he decided in consonance with his previous decision. I say all honour to the man who in the face of threats, in the face of these conflicting decisions, did as he did, gave a well-reasoned judgment in the case. Another significant matter in connection with this case has not been brought out, a matter showing whether there has been anything like fair-play towards Mr. Carling or his friends in reference to the conduct of this judge. During the time they were pressing the judge to give judgment, Mr. Hellmuth, who was acting for Mr. Carling, came forward with a proposition to Mr. Aylesworth. What was the proposition? Mr. Hyman claimed that he ought to have 22 majority if all the disputed votes were struck off. Do not forget this fact, which has not been fully understood—let me impress it upon the hon. members of this House—that of the 125 or 126 of these people whose disputed votes were recorded, nearly all of them had never been heard upon the merits whether they were entitled to vote or not. They had declined to appear before the revising officer, because their counsel had advised them that they had no occasion to appear on the notice they received. Mr. Hellmuth came forward and said: 40 or 50 of these men reside in or about London, but have never been heard; I propose, if Your Honour will hear them, and if Mr. Aylesworth will consent, to produce them immediately. I will say nothing but this. If you will abandon the technicalities, if you will not say that not having

appeared and therefore you have lost the right to be heard, I will guarantee to bring these here; and out of those 50 we will establish more than 22 votes. And what was the answer of the counsel of the Hyman party? It was: "No," he wanted the technicality of the law applied against us, but he did not want it applied when it was in our favour; and he declined the offer which would have settled the matter on its merits. That brings me down to the matter of the petition before the House. What is the first charge? There are three charges, and any hon. gentleman who is a lawyer, at all events, and the hon. gentleman who last addressed the House is one, know very well what is meant by a charge. He was very careful not to define anything himself, which might be considered a charge sufficient to put any one on his trial. The first clause substantially is this, that Judge Elliott, under the circumstances, with the conflicting decisions of the different courts upon the subject, ventured to express an opinion that did not agree with all these courts. The petitioners do not say his decision was wrong, they do not say in their petition, in any shape or manner, that he decided contrary to law, even the hon. member for North York did not pretend to say it was wrong. The law is in a mixed condition, and the question cannot be finally decided until it goes to the Supreme Court where they might have let it goe if they had seen fit. He simply gave his decision contrary to some of the other judges of the Superior Court. The very people who argued the point before this judge did not, for one moment, contend that it was binding upon them. Now this is no charge at all. No one knows better than the hon. member for West Lambton and the hon member for North York that they must charge the decision was wilfully corrupt and wrong to make it a charge at all. How would it be in this or any country, if a judge is to be held up to contumely by the press and Parliament, simply because he might make a mistake in the law? How would it be if the high privileges of Parliament were to be invoked in such a case? No judge would dare administer the law. What are the two other charges?

"The said William Elliott, during the said election and while the said appeals were pending before him, contributed editorially and also under an assumed name to the *London Free Press* newspaper, articles of a violent and partisan character bearing upon the said revision of the voters' list and political questions of the day, and particularly upon the said election for the said electoral district and in support of the candidature of the said Carling and against the said Hyman.

"After the said election and before deciding said appeals, the said William Elliott, in strong and violent language, denounced the said Hyman and his supporters and stated to several electors of the said city, that the said Carling would certainly get the seat in the House of Commons for the said electoral district."

Now those gentlemen know well that those are not charges. They know that no county magistrate would commit the meanest citizen in this country for trial unless they produced, in a case where a written paper was in question, the paper before him containing the article or proved it was lost or destroyed, and in that case proved its contents by other evidence. That is a clear rule of law. No fair-minded lawyer who knows anything about law or practice can gainsay it. Secondly, where it is spoken words which are in question, they must give the words or the substance of them, the time, place and circumstances under which they were