

all events, and I am certain there has not been a case in the last 40 years, where a judge on the bench has taken part, as this judge has been accused of having taken part, in a political contest of this kind. Is it because the man is on the bench, because he occupies a position so far above his brethren, that he can do acts that unfit him for the proper discharge of his duties? I want to know what can more disqualify a judge from giving an impartial consideration on matters political, when they come before him in his judicial capacity, than the circumstance that he is allying himself actively as an agent to promote the candidature of one candidate or another, for the success of one political party or another. And therefore whilst the judges may be allowed to have their political opinions, while it is impossible for them to strip themselves of their political views, I think no one will say that they are warranted in saying that they may, after taking the ermine, either in the press, on the street, or on the platform, manifest party bias for one political party or another. I therefore say the hon. gentleman has wholly mistaken the issue if he supposes these charges simply accuse Judge Elliott of having political opinions. They are much more serious. They charge him with being an active political party man, nothing more nor less than a party heeler, and that, at the time when he had it in his judicial power to seat one candidate or the other, and which power we say he has exercised in the way in which his party leanings went. I will not controvert, at this stage, the statement made by the hon. gentleman, that Judge Elliott is one of the purest of judges that ever adorned the Canadian bench. I think it will be better to reserve an expression of that kind until his particular conduct in question is investigated, and if these charges are foundationless, I shall rejoice, as all honourable men ought to rejoice, in his being exculpated; but the friends of Judge Elliott, if they believe in his innocence, should be the first men to ask Parliament to carry this motion and have his conduct investigated, and when I find, on the floor of this House, efforts made to prevent enquiry, I certainly am compelled to arrive at the conclusion that hon. gentlemen opposite do not believe that Judge Elliott's conduct is of the purest of the pure. The hon. gentleman said that nothing improper could be implied from anything that Judge Elliott has said or written. He did not venture to say that Judge Elliott did not write any of these articles; Judge Elliott did not venture to instruct him to that extent, I venture to warrant. Judge Elliott has never, up to this moment, denied writing these articles.

An hon. MEMBER. What articles?

Mr. MULLOCK. Before I am through, hon. gentlemen will have the advantage of knowing what the articles are. I have them before me. The hon. member for West Lambton (Mr. Lister) did not care to read these articles. He proposed to lay this case before Parliament to allow the judge, as he ought to have done, to come before Parliament in a manly way and give his answer at an early stage. Hon. gentlemen opposite did not deny the existence of these articles, further than to say that nobody could point to anything improper, but before I take my seat I will refer to some of those articles and I will leave it to the hon. gentlemen to say whether their contents are pro-

per or not. Now, Sir, what did Judge Elliott do? There is a good deal that is controversial in his conduct, but there is a good deal which depends upon proceedings that have taken place and about which there is no controversy. There is the following in evidence about which there is no controversy. On the 20th November Judge Elliott held that he had no power to overrule the revising officer who decided that he had power to amend and to adjourn his court to permit an amendment. As the hon. member for East Lambton (Mr. Moncreiff) said, at this stage Judge Elliott did not know whether or not there would be another election, because the seat was not vacant. Assuming that to be the case, I am inclined to attach a great deal more importance to his decision then, than to his decision later on, when it was clear that his judgment was going to have a great influence on the representation of that constituency. From the decision of the revising officer there was an appeal to the Court of Queen's Bench, and it is not in doubt at all that when the election was over, and when it depended upon overruling the decision of the revising officer whether Mr. Carling should take his seat or not, Judge Elliott then proceeded to deal with this matter, and he did deal with it in favour of Mr. Carling. But in order to seat Mr. Carling, who did not get a majority of the qualified voters, he had, in the first instance, to find in favour of the qualification of 128 voters who had been held by the revising officer to have no vote. To that extent he overruled the findings in fact and law of the revising officer. He further had to overrule the unanimous decision of the Court of Queen's Bench, and in order to explain why he did this he says that the Court of Queen's Bench had not given a judgment with reasons. It is true they decided the law, but they did not give those reasons that commended themselves to Judge Elliott. That court seemed to know what the law was, it was so plain to them that they did not, I presume, deem it necessary to deliver an elaborate judgment, but assumed, as they had a right to assume, that their judgment, without giving reasons, should be accepted as an honest and correct judgment. Judge Elliott had to overrule that judgment too. He did so, and he says that in doing so, he supposes he would cover himself with obloquy. I think he has well prophesied the result. But he had to go further, and to overrule the decision of the Court of Appeal. The three judges of the Court of Appeal who gave judgment unanimously decided in favour of the decision of the revising officer, and they supported the decision of Judge Elliott himself in the first instance. They decided in the same way as the Court of Queen's Bench, and it, therefore, became necessary for Judge Elliott to overrule the decision of the Court of Appeal. How did he do that? His contention was that these judges of the Court of Appeal did not know what they were about, that though they had delivered judgment on a point that had been threshed out before them by able counsel on both sides, Judge Elliott chose to place the construction upon that judgment, that it was not necessary to be given in order to determine the case. And so the junior judge overruled the decision of the Supreme Court, the highest court in the Province of Ontario. But he had also to overrule another judgment.