

Mr. WELDON. I would not at this time of the night rise to speak were I not possessed strongly of the opinion that the procedure which the hon. member for West Lambton asks this House to take is an unsound procedure and one which it would be unwise for this House, in the best interests of this country, to follow. The House of Commons can do something to preserve the dignity of justice by the tone of its discussion in matters of this kind. It is a fair subject of complaint and remonstrance that more than one member of this House, in addressing himself to this question, has forgotten the nature of the question to which he was speaking; and I fully endorse the scathing rebuke which the hon. member for South Norfolk administered to the hon. member for North York concerning the remarks made by that hon. gentleman with a view to coercing Judge Elliott a few days before his judgment was delivered. I speak without heat and passion, I hope, when I say that in the six sessions during which I have had the honour of having a seat in this Parliament, that speech stands without rival or parallel in our parliamentary record. It is one which should have called out a strong rebuke, coming from a layman, but coming from a barrister it merits a still stronger rebuke. Not only can this House do something to preserve the dignity of justice by the sobriety and moderation with which hon. members discuss questions affecting the administration of justice, but we can do still more by laying down a safe procedure for dealing with charges of misbehaviour against one of the judges of the land. I object, in the strongest way, to the procedure which the hon. member for the West Riding of Lambton has asked this House to adopt in his motion upon the Paper. I object to it for the reason that it is adverse to the public interest, that it runs counter to a usage which is well established, that it is in conflict with an Act which Parliament, ten years ago, in its wisdom, chose to pass for our guidance in matters of this kind. And, furthermore, I would urge that it is in conflict with the sound constitutional rule laid down, I think, in one of the sections of the British North America Act. In the first place, we are asked to take a copy of the petition which has been laid upon the Table of this House, complaining of the conduct of a county judge:

"And to furnish that petition to that judge for his information and enable him to make such statement or answer to the charge therein contained as he may deem proper, and that the said petition and any such answer as the said judge may make be referred to a special committee of this House to enquire into the truth of the several allegations therein, with a view of finding whether such charges should be investigated by a commission."

Now, the practice which we are asked to adopt in this debate is not the practice which has been pursued in this country for a number of years. I submit that the hon. member for West Lambton has been misled by the reading which he made from Bourinot's book on the Practice and Procedure of Parliament, and which is found on page 35. I need not read that quotation, but I would suggest to the hon. member that if he would take that reading and follow out the Canadian cases mentioned in it, and the English cases cited in the foot-note, and then look up in the English *Hansard* the comments on these cases, he will find he is not well warranted in asking this House to adopt the procedure he proposes. The procedure open to us to adopt is this: That

Mr. McDONALD (Victoria).

if a member has reason to complain of misbehaviour on the part of a County Court judge, his duty is to put those facts before the Government, and it is the duty of the Government, pursuant to an Act which I will quote in a moment, if, in the opinion of the Government the charges are of a character so grave that, if true, they will call for further enquiry, to put those charges before the judge, and then what comes next? What comes next is the issue of a Royal Commission, should the Government think fit to do so. My hon. friend from East Lambton, who has spoken so clearly and so convincingly twice on this question, says, we cannot be too careful in this House in trying to maintain public respect for our courts of justice. Let me remind the House that one of the wisest law reformers of the English race said that it was of supreme importance to a free commonwealth that it should have the highest confidence in its courts of justice, so much so that he believed it was better that the people should believe they were getting pure law from the courts of justice when they were not than the contrary. I refer, of course, to Jeremy Bentham, whose works have largely affected the jurisprudence of some forty English-speaking commonwealths. If we would be guided by the constitution, if we would be guided by the old practice in the mother country as well as in this, even if we were making a new practice, we should take care that, in the early stages of an attack upon a judge, the charges were grave. I have indicated what is the established usage, and I have shown that the quotation from May, which my hon. friend from West Lambton (Mr. Lister) relied on, will, if he examines the authorities in regard to it, bring him to a different conclusion from that which he has enunciated. I have shown that the usage we have followed in Canada in regard to County Court judges for ten years has been that the complaint should be put before the Administration and that they must take the responsibility of dealing with it. Ten years ago, the Parliament of Canada passed an Act dealing with cases of this kind. It is found in the Revised Statutes, chapter 18. Section 2 of that statute provides that judges of the County Court shall hold office during good behaviour. Then sub-section 2 of that section provides that:

"A judge of a county court may be removed from office by the Governor in Council for misbehaviour, or for incapacity or for inability to perform his duties properly, on account of old age, ill-health or any other cause: if—

"(a). The circumstances respecting the misbehaviour, incapacity or inability are first enquired into: and—

"(b). Such judge is given reasonable notice of the time and place appointed for the enquiry, and is afforded an opportunity, by himself or his counsel, of being heard thereat, and of cross-examining the witnesses and adducing evidence on his own behalf;

"3. If any such judge is removed from office for any of such reasons, the Order in Council providing for such removal, and all reports, evidence and correspondence relating thereto, shall be laid before Parliament within the first fifteen days of the next ensuing session.

"4. The Governor General in Council may, for the purpose of making enquiry into the circumstances respecting the misbehaviour, inability or incapacity of such judge, issue a commission to one or more judges of the Supreme Court of Canada, or to any one or more judges of any Superior Court in any province of Canada, empowering him or them to make such enquiry and to report, and may, by such commission, confer upon the person or persons appointed full power to summon before him or them any persons or witnesses, and to require them to give evidence on oath, orally or in writing or on solemn affirmation, if they are persons entitled to affirm in civil matters, and to