

Mr. BENNETT: No court worthy of the name can serve the purpose intended if the judges who constitute it hold office during pleasure, and the history of Great Britain and of our own country makes that perfectly clear. That is why the great office of Master of the Rolls in England is no longer held by one who occupies a place in parliament, and that is why at times the anomaly has been attacked of the Lord High Chancellor holding a place in parliament. But we have created a court of record. We are going to appoint judges to that court, and we have to determine two things, their qualifications, and their tenure of office. Their qualifications we have broadly indicated by the class of work which they must do. We have indicated as clearly as it can be done that their functions are limited to finding facts, and I say with great frankness that a judge who is competent to find the facts is an eminent judge. I recall reading only last week a short sketch of a distinguished jurist, now no more, and the biographer was giving a little inside story of why this distinguished jurist was always right on questions of facts. Early in his judicial career he said to the usher of the court, "I wish you would watch the proceedings carefully, because at the end of the day I mean to speak to you." At the end of the day he would speak to the usher who would tell him something like this, "Smith perjured himself. Jones did so and so. The plaintiff was all wrong." The judge gave his decisions after talking with the usher, and year after year he was held in higher and higher esteem as a judge whose finding of fact was incomparable, and he finally attained to great distinction on the bench.

Here we have asked for the appointment of three judges, three men exercising judicial functions. We have defined the ambit of their powers as finding facts and nothing else; not the application of law or principles of law, except economic laws, so far as the facts may be concerned. They are to find certain facts from evidence, and we have stated what facts are to be found. Does a change of government alter that in any way? Is a fact less a fact because my right hon. friend is in office instead of me? Does the sitting of that court make any difference in the finding of facts because it was held on the first of August rather than on the 26th day of July? The court is not the reflection of the mind of the government. That is why I have said to my hon. friend from Hants-Kings that we are perfectly content that the words "under the direction" shall be changed to "at the request." I may be wrong, as I have said, in

the view I entertain as to the usefulness of this court, but I honestly believe that a tribunal of this kind, freed from political considerations, holding office without regard to government, pleasing or displeasing governments being a matter of no importance to it at all—

Mr. STEWART (Edmonton): We have had some experience of that.

Mr. BENNETT: I had heard that that was so, and I am glad to hear my hon. friend confirm it. For my part, I am bound to say this, that I do not believe that any government has any right with respect to a tribunal so created to ask or expect that tribunal to make any finding of fact that will please or displease any administration.

Mr. STEWART (Edmonton): That is not the point at all.

Mr. BENNETT: That is my conviction, and I believe as certainly as I am standing here that we have in this country men capable of exercising judicial functions in the finding of facts as indicated by this measure. But I do not believe that we can get them to take office if they are to be subject to the indignity of being removed merely because there is a change of government.

What about the question of returning officers? The right hon. gentleman talked about them, and nothing was done. What about them?

Mr. HANBURY: They do not influence government policy.

Mr. BENNETT: They sometimes influence the election of members, and I have known members to influence government policy, but not the hon. gentleman. But be that as it may, I merely mention that as an instance of what may be done when the other principle is applied. Returning officers were appointed at the behest of the members of the dominant party of the day, and some of them gave rather—shall I say?—rough treatment to some of the candidates opposed to their views. I suppose that is a case in point.

Mr. STEWART (Edmonton): Not with me. I always got fair treatment.

Mr. BENNETT: Naturally, having appointed the returning officer.

Mr. STEWART (Edmonton): No, I mean from the men my right hon. friend appointed.

Mr. BENNETT: I leave that for the moment. That was the first point which the right hon. gentleman made. I have referred to his second point. Now he says that some-