

of these discussions, who laid down this principle, that unless it be necessary for the impeachment of a judge, a petition against a judge ought not to be entertained. So reluctant is that House, so reluctant are both Houses of Parliament in the United Kingdom to enter into an enquiry which will in the least degree appear to limit the independence of the bench or lower the dignity and reputation of the judges, that unless for the exercise of an inevitable function, namely, for the passing of an address by way of an impeachment, they will not entertain any petition or complaint against a judge. But the House here is told that one reason for this motion is that it is not a motion for impeachment or for passing an address at all. Let me call the attention of the House to some of the observations in regard to the independence of the bench which have occurred in the investigations which have taken place in England. The independence of the bench is always spoken of in terms which I shall read in a few moments by such high authorities as were cited by my hon. friend from Albert (Mr. Weldon), such as Lord John Russell, Sir Robert Peel and others. Lord Chief Justice Holt, when he was called to the bar of the English House of Commons for having given a decision which was supposed to have infringed upon the rights of the House of Commons, made the noble answer which was afterwards reiterated and endorsed by some of the greatest statesmen. He said :

"I hold an authority independent of yours. I gave my reasons for the judgment I delivered in that place in which I was sworn to administer justice. By this House, I look to be protected and not to be arraigned, and I will not assign the reasons here on which I founded my judgment."

In one of these discussions it was said to be a principle well established that "enquiry should not be instituted otherwise than with a view to addressing the Throne in order to remove a judge, and if any other principle were adopted the independence of the bench would be a mockery." Sir Robert Peel said on another occasion :

"To exercise the function of enquiring into the conduct and the character of a judge for any other purpose than removing him from the bench on grounds which would justify an impeachment would be simply to hang a label around the neck of the judge so that he would be held in contempt by the country."

And he further said that "by doing that"—by appointing such a committee as we are asked now to appoint—"you evade the law which requires that you should take action by an address for the judge's removal." Let me refer also to the remarks which were quoted by my hon. friend from Albert (Mr. Weldon) at the beginning of his address, which were made by Lord John Russell, on 21st February, 1843, when 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 which might by any means imply that the judges were to depend for the future, not on the sanction of an Act of Parliament—not on that tenure which had protected them as long as they were not guilty of any crime, but on the particular views of a particular portion of their fellow countrymen." To apply that at present, if any judge gives a judgment in favour of some one in political life, or against him, that is to be a subject of debate and investigation by a committee, though the law provides another mode of investigation and though the proceed-

ings are not in the way of an address to the Crown to have the judge removed, but are simply designed to hang a label round his neck. The judges will then no longer be independent and will no longer hold their office on the tenure which Parliament has prescribed, and the independence of the bench then becomes a mockery and a matter dependent on the whims or notions of one section of the judge's fellow countrymen. Let us consider the range this discussion has taken as indicating the necessity of adopting another course, if it can be done. The petition does not even allege a wrongful decision. The statements have been made that certain articles which have been produced in the House and which were published in a newspaper were written by the judge. Those statements have been made on no authority whatever but simply by way of attack, by way of invective against the judge—and revengeful invective too—and we have heard the time of the House taken up hour after hour—by the member for Guysborough (Mr. Fraser) for instance—in reviewing the decision of Judge Elliott, in declaring that it was bad law, in holding up to ridicule the kind of law which he administered in keeping Mr. Hyman out of his seat, as if this House were a court of appeal from the county judge of Middlesex. That is the position the House will be in if it adopts what the hon. gentleman suggests, and this resolution does stop short of that because it looks to the final investigation by a Royal Commission, and the investigation which would take place before a committee of the House is to be a second trial conducted for no purpose that it is possible to conceive. If that investigation takes place, if it is favourable to further proceedings, the petitioners are directed to pursue those further proceedings. I have endeavoured to refrain, and I shall endeavour to refrain, from saying anything as to what might be the result of an application to the Executive, because it may come to that in the future. I simply express myself in regard to the policy of this House dealing with so important a question in this way, dealing with a matter involving the independence of the bench when the law provides another tribunal for the purpose, which Parliament ten years ago thought a better tribunal, and a tribunal which has exercised its functions in three or four cases since, and which may exercise its functions now if the petitioners choose to exercise their rights in the direction pointed out to them.

Mr. DAVIES (P.E.I.) To many of the propositions of the hon. gentleman I take no objection, but to some of them I certainly do take exception, and I think it will be apparent to those who followed the hon. gentleman in his speech to-night that, if his argument is carried to its logical conclusion, there is no possible conduct which any County Court judge could take which could come under the animadversion of this House. That is the result of his reasoning. I take exception to the hon. gentleman's statement in that regard, and, when we come to look at the position the County Court judges hold, and at the statute defining their tenure of office, we must come to the conclusion that not only is it open and proper for this House to take the initiatory step in advising the Governor in Council to proceed under the statute we have passed, but this House would be neglecting its plain and direct duty if, when a plain and proper case is