scribe the conditions on which the judge may keep his office and also to create the tribunal which shall decide finally whether the conditions have been complied with.

The difference between the nature of the tenure mentioned in the Con. Stat. and in the Revised Statutes is indicated by the presence in the latter of the word "incapacity" in addition to "inability" and "misbehaviour," which in the former appeared as the only grounds upon which, or either of which, a judge could be removed. This addition suggests that "inability" and "incapacity" are not to be treated as synonymous terms, and it is possible that one might be held to apply to physical, the other to mental qualifications. However that may be, I do not propose at present to discuss the right to legislate upon the terms of holding; but that this must share the fate of the right to remove. Granting, therefore, for the purposes of the present occasion, that the Local Legislature may as part of the organization of a court, or on some other ground, prescribe the nature of the tenure, I deal only with cases in which the occupant of the office ought to be removed. And I take the question now open to debate to be this—*Has a Provincial Legislature the right to direct the proceedings by which a County Court Judge may be removed?*

As far as I have heard the arguments in favour of the provincial right, they are covered by the following propositions:

(1.) That the constitution, maintenance, and organization of these courts is by the B. N. A. Act committed exclusively to the local power.

(2.) That it is necessary in the constitution, maintenance and organization of a Court to provide for both the appointment and removal of its judges.

(3.) That, as the said Act names nothing more than the appointment as being under the Dominion authority, everything else connected with the constitution, maintenance and organization, including the removal of the judge, must be thereby put within the control of the Provincial Legislature, the more especially because under the same heading "The Judicature," it is deemed expedient in that Act to provide both for filling and vacating judgeships in superior Courts, but only for the filling of them in inferior Courts.

There may be other arguments on the same side which some persons would urge instead of or in addition to these, but I think there is a two fold answer to them all:—

(1.) The silence in the B. N. A. Act as to this right of removal has the effect of giving it to the Dominion.

(2.) The language of the Act itself shows that Local Legislatures are not to deal with the removal of a judge.

This silence must be considered in the abstract, and in connection with the above mentioned special circumstance which accompanies it. As to silence generally, I submit that where there is no law to the contrary, the right to remove is appurtenant to the right to appoint. Any other rule would amount to a preference for anomalies and confusion in the affairs of state. If these rights rested with different bodies a deadlock might be created by the removing authority vacating the office as often as it might be filled—or the removing authority might from time to time open the place till it came to be filled by an occupant to its own liking, "which is absurd." Public policy furnishes a canon of construction by which a statute giving the power of appointment to a specified body without mentioning removal must be held to mean that the same body can place and displace.

Then as to the special circumstance that the means of removal of a County Court Judge is not stated, though the Act deals with the judicature of both courts, and provides for the removal from the higher tribunal: that circumstance is entirely consistent with the theory that silence on the subject gives the right to remove as part of the right to to appoint. In fact it is because this would