

faculty thereof shall be promoted or removed from office except upon recommendation of the President.

Under this Act it cannot be contended that the professors are appointed for life, subject to removal only for expressed impropriety of conduct, because the act expressly provides that unless it is otherwise provided their appointment is during pleasure only.

The professors under the Act are members of the council. Mr. Weir, in *Weir v. Mathieson*, 3 U.C.E. and A 123, was a member of the senate, and in that case Hagarty, J., in delivering the judgment of the court, said at p. 159:

"Mr. Weir could be 'amoved' from the office of professor, although he could not, without cause, be 'disfranchised' as a member of the corporation, according to Chancellor Kent's definitions (*Dartmouth College case*, 4 Wheaton, 534). His dismissal from his situation still leaves him a member of the corporate body."

During Pleasure Where the appointment is during pleasure no notice is required, nor need any hearing be given, because as was said in an old case, *King vs. Stratford*, 83. E.R. 413

"for it is to no purpose to summon him to answer whom they may remove without a crime."

In a similar case, *ex parte Jacob*, 10 N.B. 153, where a professor appointed "during pleasure" was removed, Carter C. J. at p. 162 said:

"Under this, we think that the right of removal by the Senate, of any of the professors, as well as the other officers and servants of the University, who are all placed in the same category in the manner provided for, is absolute, at the pleasure of the College authorities: *i.e.* the Senate and the Governor in Council. By the original charter of King's College, the Professors were appointed by the Crown *during pleasure*; and by the Act for establishing the University of New Brunswick, the offices of the Professors and other officers in the University, are not held for any fixed time, nor by any permanent tenure; but, by the Act of the Legislature to which the Crown is a party, they are held at the pleasure of the governing bodies of the University, *i.e.* the Senate in the first place, subject to the approval of the Crown, as represented by the Governor in Council; and when that approval is given, the Act of the Senate becomes conclusive and final. By this power, subject to the sole restraint of the Governor in Council, the Senate may, if they see fit, remove any of the officers, without any formal proceeding in the nature of a trial, in the same way that a private individual may dispense with the services of a clerk or other servant, and are not liable to be called to account for their proceedings in any other tribunal.