

The plaintiff, under the charter, is a member of the senate. As such, it may be argued that he is a corporate officer, and falls within the rule to be found in many books, that, as in Grant on Corporations, 34, "Where a charter gives power to appoint an officer, an appointment for life will be intended, unless it appears otherwise, either from other parts of the charter, or the nature of the office."—Comyn's Digest, Franchise, F, 32.

It is not easy to find any direct authority as to the tenure of a professor. Is it an *office* in the sense used in many of the text writers? Is he a public officer in the same sense?

In a removal case, reported in 7 East 167, *Rex v. Mersham*, the question was whether a person came within the statute 3 Wm. and Mary, ch. 11, as "holding a public office or charge." Lord Ellenborough says:—"An office must be derived immediately or mediately from the crown, or be constituted by statute; and this is neither one nor the other, but merely arising out of a contract with the parish, which the parish officers, with consent of parishioners, are by the statute enabled to make with any persons, for the maintenance and employment of the poor. The question might admit of a different consideration, if any distinction had been established between a *public office* and a *public charge*; but I can find no such distinction, either in any adjudged case, or in the sense of the statute." Again he says:—"Perhaps the best criterion for determining whether this man were an officer, was to consider whether he were indictable for the negligent discharge of the duty which he engaged to discharge." Lawrence, J., says:—"This is clearly no office, but an employment arising out of a contract."

Baggs' case (11 Rep. 98) is always cited on this subject of tenure; but it concerns the disfranchising of a freeman in a borough.

The Darlington School case (6 Q. B. 682) reviews many of the authorities. There the schoolmaster, under the charter, was removable in the discretion of the governors. Chief Justice Tindal notices the plaintiff's contention that his appointment was during good behaviour; "so that he had in contemplation of law a freehold in his office. * * If he had, as in Baggs' case, a freehold in his freedom for his life, and with others in their politic capacity, an inheritance in the lands of the corporation; or if the office of schoolmaster resembled that of a parish clerk, as in Gaskin's case (8 T. R. 209), the inference drawn from these cases would be correct.