Some time ago, when speaking of the retirement of Chief Justice Lefroy, and the attacks made upon that venerable Judge, not only outside, but in both Houses of Parliament, we had occasion (2 U. C. L. J., N. S., p. 281) to touch upon the constitutional mode of bringing up the misconduct or incompetency of judges. We had at that time the pleasure of hearing Mr. Todd's (then unpublished) views on this subject. The whole matter is now given to the public in a more full and complete manner, not only with reference to the Judges 'Superior and Inferior' of Great Britain and Ireland, but also to Colonial Judges. Speaking with reference to the latter he says:

"So long as Judges of the Supreme Courts of law in the British Colonies were appointed under the authority of Imperial statute, it was customary for them to receive their appointments during pleasure. Thus, by the Act 4 Geo. IV. c. 96, which was re-enacted by the 9 Geo. IV. c. 83, the Judges of the Supreme Courts in New South Wales and Van Dieman's Land are removable at the will of the crown. And by the Act 6 & 7 Will. IV. c. 17, sec. 5, the Judges of the Supreme Courts of Judicature in the West Indies are appointed to hold office during the pleasure of the crown.

Nevertheless, the great constitutional principle, embodied in the Act of Settlement, that judicial office should be holden upon a permanent tenure, has been practically extended to all Colonial Judges; so far at least as to entitle them to claim protection against arbitrary or unjustifiable deprivation of office, and to forbid their removal for any cause of complaint except after a fair and impartial investigation on the part of the crown.

In 1782 an Imperial statute was passed which contains the following provisions:—That from henceforth no office to be exercised in any British Colony 'shall be granted or grantable by patent for any longer term than during such time as the grantee thereof, or person appointed thereto, shall discharge the duty thereof in person, and behave well therein.' That if any person holding such office shall be wilfully absent from the colony wherein the same ought to be exercised, without a reasonable cause to be allowed by the Governor and Council of the colony, 'or shall neglect the duty of such office, or otherwise misbehave therein, it shall and may be lawful to and for such Governor and Council to remove such person' from the said office: but any person who shall think himself aggrieved by such a decision may appeal to his majesty in council.

This Act still continues in force, and although it does not professedly refer to Colonial Judges, it has been repeatedly decided by the Judicial Committee of the Privy Council to extend to such functionaries. Adverting to this statute, in 1858, in the case of *Robertson* v. *The Governor-General of New South Wales*, the Judicial Committee determined that it 'applies only to offices held by patent, and to offices held for life or for a certain term,' and that an office held merely *durante bene placito* could not be considered as coming within the terms of the Act.

From these decisions two conclusions may be drawn; firstly, that no Colonial Judges can be regarded as holding their offices 'merely' at the pleasure of the crown; and secondly, that, be the nature of their tenure what it may, the statute of the 22 Geo. III. c. 75 confers upon the crown a power of amotion similar to that which corporations possess over their officers, or to the proceedings in England before the Court of Queen's Bench, or the Lord Chancellor, for the removal of judges in the inferior courts for misconduct in office. Under this statute, all Colonial Judges are removable at the discretion of the crown, to be exercised by the Governor and Council of the particular colony, for any cause whatsoever that may be deemed sufficient to disqualify for the proper discharge of judicial functions, subject, however, to an appeal to the Queen in Council. But before any steps are taken to remove a judge from his office by virtue of this Act, he must be allowed an opportunity of being heard in his own defence." (Vol. II., p. 746.)

In connection with this subject we in Ontario must read Con. Stat. U. C. cap. 10, sec. 11, which regulates the tenure of office of the Judges of our Superior Courts, and the recent Act of the Ontario Parliament of 32 Vic. cap. 22, sec. 2, under which County Court Judges hold office during pleasure, subject to removal by the Lieutenant Government for inability, incapacity, or misbehaviour, established to the satisfaction of the Lieutenant-Governor in Council.

Numerous cases are cited to establish and explain the principles laid down by the author with reference to the cases in which Parliament should interfere and the mode of its procedure for the removal of judges. No cases, however, from this Province as yet "point the moral." Long may this continue, even though the two volumes before go through editions enough to satisfy the longing of even the most ambitious or deserving of authors.

This brief recital of the main points treated of by Mr. Todd gives no idea of the interesting and instructive matter of the work; as a mere history it contains information to be met with no where else, and given in the pleasantest and most readable manner. But it is not the historical details so interesting to the