

COMPLAINTS AGAINST THE JUDICIARY.

the States another visit. Repeating the expression of pleasure at your communication,

Yours faithfully,

G. BRAMWELL.

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JUDICIARY.

Since confederation, several petitions have been presented to the Canadian House of Commons, against certain of the Judges, for alleged misconduct in office. These applications were received pursuant to section 99 of the British North America Act, which provides that "the judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons."

This provision, it need scarcely be said, is similar to the law of England which—ever since the accession of the House of Hanover—has made the judges independent of executive control, and subject to removal only upon an address from both Houses of Parliament.

From the proverbial integrity and uprightness which has distinguished the occupants of seats on the Bench in the Mother Country, it has rarely happened that there has been occasion to appeal to Parliament against a judicial functionary in the United Kingdom. But when such necessity has arisen, the proceedings instituted against the presumed offender have been noted for their gravity, deliberation and decorum. A few leading precedents have served to establish the mode of procedure in such cases, upon lines calculated to ensure the ends of justice, and likewise to uphold the dignity of Her Majesty's Courts.

In the British colonies, prior to the concession of parliamentary government, a remedy against judicial misconduct was provided by recourse to the provisions of an Imperial

statute, passed in 1782, (22 Geo. III., c. 75) which declared that the incumbents of all patent offices in the colonies who "shall neglect the duty of such office, or otherwise misbehave therein" should be removable from the same by order of the Governor and Council; subject, however, to the right of appeal to the Crown in Council. Although this Act merely refers in general terms to officers holding commissions from the Crown, and not expressly to judges, it has been held by the judicial committee of the Privy Council to extend to all such functionaries; and it has been repeatedly invoked for the removal of colonial judges for misconduct in office.

Of late years, however, some have doubted whether this form of enquiry into judicial offences could be properly resorted to in colonies entrusted with full powers of local self-government; seeing that they possess means for the redress of such grievances similar to those which appertain to the Imperial Parliament.

This is undoubtedly an important question, which, in whatever way it may be decided, involves conclusions of special interest. It must be remembered that however extensive may be the powers granted to any colony, the Imperial Government has never relinquished the right of entertaining appeals from colonial courts of law. This is a prerogative of the Crown, hitherto maintained inviolate. Its continued existence affords to the colony the inestimable advantage of submitting, in the last resort, to able and experienced judges of the Privy Council, the solution of intricate legal questions. And on the part of the Crown, this is the golden link which joins all parts of the empire together, under the supremacy of the law; a union which it has been the pride of all loyal British subjects to perpetuate.

This fact has a material bearing upon the matter we are now considering: for it is not generally known that the Lords of the Privy Council have distinctly recorded their