

operative without men asking why they are not made of universal application. And we find that the fixed tenure, established more than one hundred years ago, has been gradually extended to nearly every office in the administration of the law in England—not only to judicial offices, but also to those of a ministerial character has it been applied. A proposition so plainly recommended by common sense, and so ably supported by eminent authorities, could not fail to take a fast hold on the minds of the English people.

The people of the neighboring country in one of the "fever fits of excitement which belong to their political system," departed from this principle contrary to the advice of their best and wisest citizens; and deeply have they regretted the retrograde movement. Speaking of the judicial system in the state of New York, and its results, an American writer says: "If there be anything clear in regard to the magistracy, it is that the members of it should be what is called independent—that is to say, not only independent of the suitors who come before them, but of the very power which created them." * * * "The only mode in which the judiciary can be made independent is to make them feel secure of retaining their offices, provided their duties are faithfully discharged, and by making those offices so valuable and important that they will not be regarded by the incumbents as stepping stones to future preferment, mere rounds in the ladder of ambition, but as sufficient and reasonable rewards for years of honourable labour. All this is of course subject to the qualification that they are to be made strictly and speedily responsible for neglect of duty or abuse of trust." * *

"A hundred and fifty years ago the English Parliament, sick of the miseries resulting from a corrupt judiciary, changed the tenure of the office, abolished their dependance on the Sovereign, and made the tenure of their existence, dependant on their good behaviour alone. From that time to this the English judiciary has risen in character and influence."

"We in our supreme wisdom have ingeniously rejected the whole of the English experience. We have reversed the process, and whereas heretofore our judges sat *quam diu se bene gesserint*, we have now made the tenure really *de bene placito*." * *
"We have reduced the judiciary to a condition of

dependence, to a degree of uncertainty in the tenure of their office which would be considered intolerable by a clerk in a dry goods store, or the conductor of a rail car." * *

"Our judges are changed indeed in their position;—now dependant on a bar they ought to control—at the mercy of the ebb and flow of the political tide—subjected to the jealous suspicions of an army of angry litigants—how is it possible for them to preserve their dignity, their character, or even their self-respect?" * *

"Any one who can hug himself into the delusion that a magistracy, situated as ours now is, will long discharge the duties expected from an upright and learned judiciary, may be expected to believe that the laws of nature will cease to hold their course." * * "The principles that govern human conduct are not less fixed than the laws of gravity and attraction."

If the wisdom or value of a scheme is to be measured by its effects and consequences, we find in the judicial tenure, as established in England,—whether we regard the primary or inferior objects of the system,—a safe guide, for it has attained the objects for which it was designed; while the opposite system in the United States has "rendered the officer contemptible in the eyes of the community, and made the office undesirable in the eyes of the incumbent himself—and tends to leave the judge who passes through the ordeals of the system, little respect either for himself or for any principle of that great science of truth and justice which he has sworn to administer."

On a former occasion we noticed the anomalous position of the County Judges in Upper Canada—they being neither free from executive dependency nor placed beyond the control of popular clamour. The tenure was at one time during good behaviour; the Act of 1846, a hasty and unwise measure, made the tenure during pleasure; it prostrated the judges at the feet of any dominant power of the day—left them open to attack from any disappointed litigant, and exposed them to machinations which, however groundless, would invariably affect their after usefulness.

What is the nature of a tenure during good behaviour? to act with justice, integrity and honour, and to administer justice speedily and impartially,