

ter. Mr. President, while speaking of the influence of an excited multitude on the administration of justice, on this holy day. (Good Friday,) I cannot help thinking of a case which occurred more than 1800 years ago; and which the Church, of which I am a most unworthy member, the Episcopal Church, this day commemorates, with the highest solemnities. An illustrious victim of popular rage was brought before Pontius Pilate, who heard the proofs and pronounced him guiltless—faultless. "I find no fault in him," said he, and washed his hands in token (poor refuge as it was,) of his freedom from the crime of murdering an innocent man. But, Sir, the infuriated crowd would not forbear; and they were wont to be indulged. What signified the innocence of the meek, but august prisoner? Sir, that fiend-like cry went forth. "Crucify him!" "crucify him!" rent the air. "His blood be upon us and upon our children!" And all that was human of the Saviour of the world, was put to a shameful death. Mr. President, human passion will now and here disarm human judgment, just as it did in the days of Pontius Pilate, at the city of Jerusalem.

I am aware, Sir, that it is said the people are competent to elect other officers; and if so, why not to elect judges? Now, in the first place my argument, as I have said, is not so much directed against any particular mode of appointment, as it is to prove the necessity of a tenure during good behaviour. It is this "essential" feature, which I regard as above all other considerations. But, Sir, there are ample reasons in my judgment to distinguish this case from that of the election of political officers. The latter are chosen expressly to represent the political opinions of those who elect them; to give their vote, as they would give theirs; to represent their opinions, wishes and feelings. They can require them to do all this, and, if they fail, they will, and do dismiss them; and elect others. Take an illustration—I want an agent to perform for me some portion of my current duties, which, in the aggregate, are too numerous to allow me to attend to minutely. I have several farms, and want an agent or overseer for each. I require him to consult my judgment; and to conform to it, in regard to the character of the crops he is to rear, the field he is to cultivate, and even the details of the duty he is to perform. If he fails, I institute no process of judicial inquiry; conduct no formal investigation. I put him away at the end of the year, and get another. He does not represent my wishes, nor execute my plans. That is the sort of relation which a representative bears to his political constituency. Now take another case. As a member of a Board of Visitors, I want a Professor in the College. He is to perform the duties appropriate to his station—say, to teach his pupils Latin and Greek, according to the most approved system; a duty which I could not perform myself, and of course the last thing I desire, is, to have him do what I would do, if I were myself present. If complaint be made of his failure, the matter must be investigated. I cannot forthwith consent to dismiss him, because this boy or that

tells me he does not perform his duty. The pupils must be examined by competent persons, to determine their progress, and a thorough investigation only will enable me to decide upon his merits, or his qualifications to do that which I cannot do myself. If he were to ask me for instructions, I could not give them. I should say to him—"You have been employed for this duty precisely because you were supposed to know how it could best be done."

Now this is the relation in which the judge stands to the people. The judge is supposed to know the law; the people are known not to know it. He is to exercise his judgment, not theirs—to express his opinions, not theirs. Political officers are usually elected for a very short term, and in reference to particular, distinct, well understood questions. They have a certain line of duty, and everybody understands what it is. But it is not so in the case of the judge; his position is perfectly the reverse, in all these particulars. Above all, it differs in one other most important respect. In a political officer, you look for a politician; you expect him to act for those who elect him, and if he never were a politician before, he will surely become such, by serving a while as the representative of the people. Just the reverse is it with the judge. He must not act the politician; he must not know one party from another in the discharge of his duties; and if he had been ever so ardent a politician before, he is sure to cease to be such, in a very short time after he is placed upon the bench.

The objection that the Governor has usually selected politicians for the bench, is entitled to little weight. Let us maintain, as I have already intimated, the right sort of tenure; and the objection falls to the ground. Experience proves this. We have been proud of such men as Marshall and Story—we are proud of the present Chief Justice Taney. These men will be regarded by all, as distinguished not only for profound legal learning; and for all the varied accomplishments and acquirements professional and intellectual, which would entitle them to the first rank amongst jurists; but for unblemished integrity, for unspotted purity, for every thing which can enter into the composition and character of a judge. Yet, sir, these men, who at an earlier period of life, had been in the political arena, had mingled in the strifes and collisions of party differences; were appointed by those who were at the head of the political party to which they professed allegiance. Are they less useful to the country, on that account? Do their decisions evince an infection of political prejudice or partiality? No, sir. And to a judge, who is placed upon the bench during good behavior, you will ever look in vain, for the evidence of such infection. Why should he yield himself an instrument of wrong and injustice; and soil his conscience, with a foul stain? He gains nothing by so doing—can gain nothing. He will scarcely commit wrong, for the mere sake of wrong. If so vile, as to act thus, he will be wicked enough to bring himself within the penalties of impeachment, and be dismissed and disgraced.