

neither Constitution nor law could resist or oppose their sovereign will! *That will would be Constitution and law above all restraint; and include in itself, legislative, executive and judicial authority.* Sir, is this theory attractive which yields results so full of mischief? But fortunately, it is as impracticable, as it is mischievous. The government of the United States originates from the supreme sovereign power of the people of the United States. They are as supreme and sovereign in relation to that government as the people of Maryland are in relation to our State government. There is as much moral and political propriety in respecting their rights, as there is in respecting the rights of the people of Maryland. If it be a gross violation of rights to delegate powers of government in the one case, it is equally so in the other. And now, sir, fancy such a thing as an attempt on the part of the good people of this great nation of almost boundless extent, reaching from the borders of China to the gulf of St. Lawrence—fancy this mass of human beings scattered over this extended area, claiming to exercise *in person* those functions of administration which they insist are a portion of their just prerogative—claiming, in the language of the gentleman, “*a restoration*” of their rights! “*a restoration!*” Why, sir, when have the people ever exercised such rights? Never—never! The claim now preferred is a novelty, and one of late date too. How did our fathers understand it? I have attempted to explain what our bill of rights declares, what our Maryland fathers designed; but it will require no elucidation to show what was the understanding of the sages who declared the Independence of the Nation, as well as the rights of the people; and who subsequently poured out of their treasure and their blood in defence of those rights. In the very first clause enumerating the causes of separation from the British government, and setting forth what are inalienable rights, it is declared that “*to secure those rights, governments are instituted, deriving their just powers from the consent of the governed;*” that is, *the people*;—“and whenever any form of government becomes destructive of these ends, it is the right of the people to abolish it and”—to do what, sir?—administer it themselves? Not at all. What they wished to do in such case, was “*to institute a new government*”—“*organizing its power in such a form as to them shall seem most likely to effect their safety and happiness*”—“*to provide new guards for their future security.*” Here, sir, is the true theory. Government is an *institution*.” The right of the people—their *inalienable right*—is to “*organize*” it; not to administer it. Pursuant to this theory, the whole government of the United States was organized, and its Constitution is nothing but a delegation of authority to officers and agents, to administer it; and amongst other means, to nominate and appoint other officers and agents to aid in its administration.

And now, sir, I must guard against the attempt to misapply, or the danger of misapprehending what I have said. I do not at all mean to question the power, or the right of the people to provide,

by the Constitution for the election of judges. Quite the reverse. The very object of a written Constitution is to parcel out those portions of the sovereign power which the people find it necessary to delegate for good government. They may rightfully determine what shall be done; how, and by whom it may be done. They may determine that a judge, or any other officer may be elected by all the voters in the State, by voters in particular districts, by the Executive, by the Legislature, or by a college of electors. No doubt of this. They may do so by providing for the selection of all officers in one way; or by directing that some of them be selected in one way, and some in another. But what I maintain is, they no more divest themselves of any inalienable right by prescribing one mode, than they do by prescribing any other. If the sovereign power authorizes the executive to appoint a judge or any other officer, the executive acts in obedience to the lawful mandate of the sovereign power. If the Constitution directs the judge or other officer to be created by the votes of the people of the State, or any portion of it; then the election is in obedience to a mandate equally lawful, and emanating from the same sovereign power. The real question then to be considered, and the only one is a question, not of “*right*,” but of “*expediency*.” What is the method of proceeding most likely to attain the object we have in view? This is the subject for our consideration, and we are not to be enlightened as to our conclusions on this point, by the notion of a “*restoration*” to the people of any rights of which they have been deprived. *Restoration* is a relative term. It imports the return of an object to the person from whom it has been taken. Where, and when did the people exercise this inalienable right? Where, when, and by whom was it taken away? The Constitution of the United States—the mandate of people of the United States—vests the appointment of the judiciary in the President and Senate. Our State Constitution, from its origin, has vested this power of appointment in the Executive. There is no aggression upon the rights of the people. And any argument which professes to show any invasion of such rights, must be without the shadow of a foundation.

The judiciary is a branch, a necessary and important branch of government. It is,—at least it is intended to be,—a most available agent, in effecting the ends of government. What the end of government is, we have already heard from the highest authority:—“*to secure our rights, amongst which are life, liberty, and the pursuit of happiness;*”—“*to protect every man who needs protection, in the enjoyment of his rights of person, his rights of property and of reputation.* It is not to protect a *majority* against a *minority* of the community; but for the protection of *each* individual citizen against a violation of his rights by any other individual, or number of individuals. It does not provide a remedy for such as suffer no wrong; or relief for those, who have sustained no injury. On the contrary, the redress, it promises, is only to him, whose rights have been invaded; all its protection is promised to him, who may be-