

come the victim of force or fraud. Those who are peculiarly exposed, whether by reason of infirmity of character, physical or moral; from the want of pecuniary means, or popular favor; or from any other cause; aye, even from deformity or depravity of moral principle—all, who are especially obnoxious to the excited passions or prejudices of others—are the objects of protection. All, on the other hand, who would offend against these, (for the vilest even, still have rights,) are the subjects, *not* of its protecting, *but* of its *restraining* power. All, who would offend must be restrained; or the very first and vital end of government will fail. Whether they be powerful, abounding in wealth and influence; or elevated in political power, and place; whether acting individually, or in masses; all, who offend, must be alike amenable to the laws. Now, sir, it is a fact, as well known, in the history of human beings, as the fact, that when respiration ceases, death must be the consequence—a fact of universal observation—that the possession of power, without some adequate restraint, begets a disposition to abuse it. No body can doubt that. It has been a part of the infirmity of our being, since the fall of Adam; and doubtless will be so, to the end of time. The object of the law, which is the mandate of government, is to restrain that propensity. The object of *all* law is, to guard and secure every citizen, however humble, in the enjoyment of all the privileges guaranteed to him. Unfortunately, however, the law, though good and wise, cannot execute itself. If a man suffer actual injury in his person, or in his property; it is of small account, to tell him there is an act of Assembly on the statute book, which says you shall have ample redress. If he cannot go beyond the reading of the statute, if no mode of enforcing his claim to redress be provided; he will not be the better, for the statute. There must of course be some agency, some machinery, to carry the law into effect. You must then have wholesome laws, and you must have courts and judges to afford the means of executing them, and of bringing them within the reach of those for whose protection they are made. This proposition will be admitted on all hands. If there be one of them disputable, I am not aware of it. We must have a government of force, to be administered by a military arm, or a government of laws; if the latter, we must have judges. Of course, the judge should execute the duties of his station, so as to accomplish the great end of his being. He should apply the law, according to the purposes, for which it was enacted; to the protection of the weak against the strong; to the punishment and restraint of those who would commit wrong; and to the redress and security of those, who are exposed to it.

Hence arises the great question for our solution, *what sort of judge, in this state of things, is most likely to perform the functions of the office effectively and faithfully?* What are the elements necessary, in the character of an officer, who is thus to be the representative, and exponent of the law? My answer is, that the very first and indispensable constituent, in the character of

such a man is a consciousness of perfect independence; a freedom from all motive to do wrong; an exemption from all fear to do right. This truth, to my mind, results from the very nature of the fact, that he is to perform an odious duty; odious to an influential opposition, in direct violation of its strongest feelings and dearest interests. In any other matter, if you desired a man to perform a given duty; you would certainly, as far as possible, remove from him all motive to neglect or abuse his trust; especially would you guard against his being made to suffer for its faithful discharge; you would, if possible, so arrange matters, as that advantage, and not loss, should be the consequence of his fidelity. Any other course would be as contrary to the common usage of prudent men; as it is to the philosophy of our nature. Man is a creature of motive. You might as soon expect an engine of the most perfect mechanical construction, to perform its intended operations, *without* the guiding and controlling hand of the engineer; as expect the mind of a human being to give existence to words or actions, *without* some motive to act upon it. Experience, in every department of human life, demonstrates, that such is the character of every sane mind, and ever has been. It is also true that the very instincts of our nature prompt us to regard, with peculiar interest, considerations of personal advantage, or injury. Man, in his best condition, is to some extent *selfish*,—wisely, perhaps—nay, perhaps, necessarily—but *certainly* such. If his existence is in peril, he is instinctively impelled to avoid the danger; and he will obey the impulse, unless it be counteracted by some other of a higher and more imperative character. It is the same, in regard to evils of a nature less fatal, but in their degree quite as unwelcome. It may be the impurity of our *animal* nature; it may be disowned by our purer intellectual being. We certainly share it, in common with the brute creation. The horse you ride, will be shy of the ditch, which looks too wide for him to leap; until the spur overcomes the dread, and urges him forward to his best attempt. Sir, the man and the brute do not differ, in that particular.

Let us then, Mr. President, consider what are the motives (and what their force,) which are likely to operate upon the mind, and regulate the action of the judge we are about to create? I will not treat of him as an abstraction, but as a judge here in Maryland, in the nineteenth century. This is the time, here is the place—and the theatre—for the exercise of his duties. We need not indulge in general speculations and theories, based upon an assumed perfection of individual character, and an elevated condition of society, or upon any other assumption. We have to deal with a practical question, and I hold the propriety of acting, with an eye to the *actual* condition in which we find men and matters. We must consult our judgments, enlightened by our experience and observation; and answer the question which I have so often said should ever be the object of our solicitude—“*What will practically produce the greatest good to the greatest num-*