

Sir, I say again, the people have the *right*, in one sense of that term; they have the *power* to do it—they are sovereign. They may assemble in their majesty, and expressly say to their judge: "You have given a righteous judgment, a judgment consistent with the laws and with the rules of honesty and equity; but it is not consistent with our feelings, and therefore as we have the power, so we resolve to remove you from your seat to make way for one who will consult our wishes." They can do this, and the judge, driven from his seat, has no redress. But is it, therefore, proper? Is it, therefore, desirable to do any thing which will encourage the exercise of such a power?

No, sir, the innate sense of propriety common to all, would denounce such a proceeding as iniquitous in the highest degree; and in the more legitimate sense of the term I *deny* that the people have any such *right*. Now, sir, what I maintain is, that when you make the judge the puppet of the people, you virtually encourage and often will cause this iniquity; that there is no real security, but in the independence of the judiciary.

Sir, the word "people" is with us, a word of very large import—of flexible and indefinite import. It is said here, that the "*people are eternal and immortal*." They are certainly as immortal as the government. No doubt of that. But they have some other attributes, which the public speeches of those who flatter them, are not so apt to describe or descant upon. The abstract theory of the honesty and purity of the people is all very well, in political harangues intended to court their favor. But is it wise to regard those attributes alone, in framing a government and providing for the administration of law? We do not thus act, in regard to other matters; we make laws to punish vice and all sorts of mischief, and we expect them to be enforced. Against whom are they directed? Are not those who are the objects of these criminal provisions to be found amongst the "people"—not the people to be sure in their aggregate, nor in their abstract character. The "people" in the sense in which we practically come in contact with them, means that portion of them, who have an immediate and direct interest or agency, in a particular transaction. We must then have respect to the number, class and character of the individuals, with whom we are to deal, in considering what is the object of the proposed provision in our Constitution—we must take things as they are, as we know them to be—we must stand on the platform, where the scene is to be enacted; and view it in actual exhibition. Well, sir, let us see how this proposed measure is practically to work. The people—thereby meaning those who are thus alluded to in the expression, "a judge dependant upon the people"—act by their votes—the only mode in which they can act, or are supposed to act. How are those votes obtained? Will it be pretended, much less will it be believed, that each man for himself, investigates the facts of the case; and with a full understanding of them, and of the obligations of

the law, calmly decides upon the moral conduct of the judge, and regulates his vote accordingly? Will any man say this?

Sir, every man knows, that the decision will be the result of prejudice, or interest, of excited feelings and passions, and a thousand motives not, at all, likely to enlighten the judgment or inform the understanding. And then, whose votes are they? Are they the votes of the individuals who deposit their slips of paper in the ballot-box? Yes, sir, in one sense they are: so far as the mechanical operation of placing them there is concerned, they are so; but the mind, the will, the end and object expressed by the ballot, are those of another. We all know this. We all know that one man often controls five, ten, twenty, aye, fifty votes. He does not *literally* put that number of ballots into the box; but does it virtually by the influence he exerts over those who do put them there. We know this to be the case every where; we see it here in this body. It is the necessary consequence of that very feeling of our nature, against which I would guard your judges; it is the effect of that wealth, intelligence, activity, courtesy, and persevering energy, which give controlling influence to individuals, and enable them to advance or impede the interests of those around them. It results, in short, from the partial state of dependence upon others.

And, sir, who are those men thus controlling the popular sentiment through the ballot-box? Not your easy, quiet, home-staying folks, who meddle with nobody's business, but men of exactly opposite character; men who actively participate in public affairs; who take part in all the neighborhood and county transactions, make themselves useful, or at least busy, by advising and counselling those around them, in their business affairs, who take the lead in giving tone to all questions of interests, and use every effort to impress their opinions upon others; either naturally excitable, or made so by participating in all the excitement within their reach; men of exactly that class, who are as apt as any other to be litigants themselves; or if not, almost certainly the warm advocates and partizans of those who are. Let us picture to our minds the case of such a man—an opulent, influential, popular leader, full of ardor in his opinions, and very ample means to induce others to adopt them—in the attitude of a claimant in court, against some unfortunate person who is the reverse in all respects, with a mean spirit and ill-contrived temper that make him the object of general dislike. Let these be antagonist parties. Now the mean man, whatever may be the infirmities of his character, however poor and humble, and despised he may be—is as much entitled to a faithful administration of the law—of that law which knows neither rich nor poor, neither high nor low—of that justice which is appropriately represented as blind—as the most powerful or most popular man in the land. If one part even of his pittance be taken from him, or indignity and injury be inflicted upon his despised person, he has a claim to redress as certain, and as safe in