

the *tenure*—the question which involves the essential element, in the character of the office—that is, the “*independence*” of the judge. But while I admit the propriety of considering the defects of the existing system, I cannot omit—what must occur to every intelligent mind—the further propriety of inquiring how far the proposed remedy will meet the objection, and remove the evil? I do not know, however, the history of all the judges. I do not know that judge Hanson was a politician; or that judge Chase was a politician. Every man, it is true, of any character and standing, will belong to one political family, or the other, when the whole country is divided into two great parties; and if that be a reason, why he should not be appointed to office, you will be obliged to select from a class of persons, who are below the ordinary grade of intellect. But let the objection, be applied to politicians in the broadest sense of the term—the question recurs—will there be a greater probability of excluding such politicians, upon the gentleman’s plan of proceeding? If not, the objection proves nothing. It is to propose a dose of medicine, which will certainly add its sickening influence to the discomfort occasioned by the disease, and the result of which, after the sickness has gone off, is either the death of the patient, or at best, a condition certainly not improved. I confess, I have no taste for such practice.

April 18. Mr. CHAMBERS resumed.

Mr. PRESIDENT—My chief effort has been to show that an independent judiciary is essential to the well-being of the government—meaning thereby the people of the State, and emphatically that portion of them for whose benefit and protection, that branch of the government is designed. I incline to believe from what I have heard from every quarter since my remarks of yesterday, that this, as a general proposition will not be denied. It is true, the gentleman from Prince George’s pronounced it a British doctrine, not consonant to the genius of American institutions. From other parts of his remarks, however, I infer that his denunciation was directed, not against the principle of Judicial Independence, but against the “*tenure during good behaviour.*” Mr. President, it is scarcely a sufficient reason for condemning a principle, to say, it is of English origin. Where did we obtain our notions of Civil Liberty, of the Rights of property, of person, and of conscience—nay, all the rights we claim? From whom did we derive our affection for the fundamentals of a Government of law, the *habeas corpus* and the Trial by Jury? Did not these and other principles, dear to us all, come from our Anglo-Saxon ancestors? They are as old as American principles, as the American branch of the Anglo-Saxon family; and I trust, they will endure, so long as the race continues. Yes, Sir, it is an English doctrine—this doctrine of Judicial Independence—and by some of the best and wisest men here, and in every portion of the civilized world, it has been regarded as a glory to the nation. Allow me, Sir, to read from a distinguished author—“*every inch an American,*”—the view he entertains upon

this subject. Yesterday I gave an instance of the practice, under the old system, by which the King made the law and its ministers bend to his will. Now hear what Judge Story says, has occurred, during the hundred and fifty years since the abolition of that system.—“*Since the independence of the Judges has been secured by this permanent duration of office, the administration of justice has, with a single exception, flowed on in England, with an uninterrupted, and pure and unstained current. It is due to the enlightened tribunals of that nation to declare, that their learning, integrity and impartiality, have commanded the reverence and respect, as well of America, as of Europe.*” In a note to this strong commendation, the author gives the names of several distinguished writers, who fully concur with him.

Sir, I propose to show further, that this English doctrine, as the gentleman terms it, has been transplanted; has here found a more appropriate location, and has flourished with renewed vigor; and that it is more in harmony with republican institutions, than with any other on the face of the globe. I yesterday ventured this assertion; and with the advantage of the recess, I have been able to procure some authority to sustain it.

First in order, and first in authority, I will quote the opinions of the wise and great and good men, who announced our separation from the parent country—a class of men, whose wisdom will not, I fear, be surpassed by that of any ago we are to witness; whose patriotism, (if I could,) I would, with all my heart, hope to see equalled; and whose sole motive and object was the good of the whole country. Among the causes of complaint, upon which they based their opposition to the British government; and upon which they urged an eternal separation, stands prominently this: “*the king had made judges dependant on his will alone, for the tenure of their offices and the amount and payment of their salaries.*” Yes, sir, it was, in part, to secure the fixed and settled tenure of the judiciary, that the war of the Revolution was waged. But they did not stop at such a declaration in their bill of rights—the Declaration of Independence. They were as practically wise and thoughtful, as they were patriotic. They were as sensible of the necessity of providing a remedy useful, and efficient, as they were sagacious in discovering the defect. Hence, one of the most conspicuous elements in the Constitution of the United States is the perfect Independence of the Judiciary, firmly guaranteed by a permanent tenure. In the third article, means are used to secure this necessary principle. It contains the genuine English doctrine, improved, transplanted, and incorporated with other cherished principles which will last while freedom has a home. The language is as follows: “*The judges, both of the Supreme and inferior Courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office.*” Sir, there is not, in the