

istration of criminal justice, where the Court is called to hold the scale of justice impartially between the State and the accused; or, what is sometimes more difficult, between the government or different factions or parties, for the time holding the administrative functions of government, and the people at large. And this difficulty is greatly enhanced where offences against the government are concerned; especially in monarchical governments or states; and more so as those monarchies partake more of the absolute or despotic character. It may, then, well be supposed, that where the judge holds office at the mere will of the Sovereign, and is liable at any moment, upon the slightest occasion, or none at all, to be removed in disgrace, and thus have both the source of present support and future acquisition removed, in such cases it may well be supposed that the judge will almost necessarily merely echo the will or the desire of the Sovereign, and that justice will be very little regarded. Hence, very little fairness or purity is expected in countries under despotic rule, from the administration of justice, where the will of the Sovereign is placed in the scale against the rights, either of individuals or of the people at large. This is a proposition so obvious, as to meet no general denial or question. If any case occurs where fairness and firmness are exhibited in the courts of such a country, in opposition to the influence or the interests of the Sovereign, it will be the more admired and praised, but none the less regarded as exceptional, and not to be counted upon in the general estimate of consequences and results.

Now, this spirit, it must be remembered, is not peculiar to despotic governments, for it is natural, and almost necessary, that all governments and all parties having for the time the possession of administrative functions, should desire to have the courts favorably inclined towards themselves. And this being so, all governments and all governing parties will study to make and to keep the judicial administration favorable to their own views, and will consequently endeavor to frown down or put down all opposing

views in the courts. This will be done in different countries and at different times in ways differing materially from each other; but in all cases with the same purpose of controlling and thus virtually corrupting the purity and independence of the judicial administration. And so far as we have observed, this is none the less true in republics than in monarchies. It is a thing to be expected everywhere alike. And it is not a thing which one can fairly consider as within certain reasonable limits. If we concede the same good faith to others which we all claim for ourselves, we must expect governments and parties, who believe in the soundness or the wisdom of their own policies, to labor to place themselves and their friends, and the doctrines and constructions for which they contend, upon the high vantage-ground of universal recognition and acceptance. To expect anything less would be to impeach either the good faith, the courage, or the zeal of the parties concerned.

Thus, it will occur in more despotic governments, as for centuries in the history of the British monarchy, and even at the present time in many European states, whose governments are, upon the whole, wisely and beneficially administered, that the judges will be removed or removable at the mere arbitrary will of the Sovereign. And equally, in such governments, the Sovereigns—as did the British monarchs, until the accession of William and Mary, after the Revolution of 1688—will claim and exercise, at will, the power to suspend the operation of any law, written or unwritten, so long as to them shall seem for the interest of the state. These are the usual prerogatives of arbitrary and despotic empires, without which they would cease to be such.

Now, it must be remembered that these defects in governmental, and especially judicial, administrators, are not peculiar to despotic empires or states, and certainly not confined to governments of any particular organization. The short experience of our own happy and prosperous country, whose government is free and popular, be-