

that number, had certainly very much in their looks to recommend them. They were more youthful and had more the appearance of brilliancy than any Court we had seen since leaving America. One would naturally suppose, from their looks only, that they possessed full competence, both of learning and ability, for the satisfactory discharge of their important and responsible functions, and that both their offices and their salary were placed beyond peradventure by the tenure under which they were held, and the stability of the administrative power.

The judges in France hold office during life, or until the age of seventy, in all the Courts; and until seventy-five in the High Court of Cassation. The distinction may be not without reason, since by such a provision, and by removing the most experienced of the judges of the subordinate tribunals into that high tribunal, as vacancies occurred, there would be constantly found in the Court of last resort a considerable proportion of judges of largest experience and most matured wisdom, with presumptively an equal, if not greater amount of learning than could be secured in any other mode. And by extending the term of holding office in that Court to seventy-five, the services of those judges who retained full strength to an exceptional period could be continued in the Court of Appeal.

It is certainly not a little wonderful that so large a proportion of the American States should prefer to have the office of the judges, from the highest to the lowest, dependent upon popular elections, at short intervals, when the experience of England and France, and of all governments, where there is any pretence of consulting the popular will in administrative functions, has shown most unquestionably that the rights of suitors and of those accused of crime, are most wisely consulted in making the judges as nearly independent of all popular or administrative influence as is practicable. This is not a question which we propose to discuss here. But we cannot forbear to express our matured and settled convictions that the American people are acting under wrong impressions in the conclusion which seems everywhere to prevail, that judges are more reliable when dependent upon popular impul-

ses, or, in other words, when not above being affected by the prevailing popular sentiment. There is no possible instrument more susceptible of easy and unjust perversion by bad men, or which bad men more often use for the accomplishment of their own base purposes, than a suddenly excited and superficial popular impulse. And there is, of course, nothing through which a timid or time-serving judge would be more readily reached, or which would be more naturally resorted to for that purpose. The history of all judicial murders, and it is a dark page, and one by no means restricted to narrow limits—is marked at every step by the most awful extremes of popular frenzy. Neither Charles I., nor Louis XVI., were among the most arbitrary or tyrannical of the English or French Sovereigns. And there can be no fair question in the mind of any sound lawyer and loyal man that both these men were really the victims of rebellion and treason, and that those men who carried them to the scaffold would, in a change of relations, have been guilty of the very same offences which they affected to punish, in greater measure. That, indeed, was abundantly proved in the subsequent history of the two Governments. And still those acts had the most unquestionable sanction of present popular sentiment. And it is equally true that the monarch whom the English people, in the short period of half a generation, recalled to the throne with shouts of acclamation, was in no sense the equal, either in ability or virtue, of his unhappy father, who, by the verdict of the same popular sentiment, justly suffered the penalty of death for imputed crimes of which he is now, by the united voice of the nation, regarded as not guilty, and of which his idolized son was and is considered to be guilty in intent, certainly, if not, in all cases, in act. But it is, perhaps, the most conclusive argument in favor of the independence of the judiciary and of its superiority over all popular and political influences, that these calamitous consequences of popular frenzy, to which we have just alluded, both in England and France, have been the primary and efficient cause of establishing their judicial tribunals upon the high vantage-ground of absolute and unquestionable independence. And it seems wonderful that so unequivocal a testimony of