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RICK and EEN.

THURSDAY, AUGUST, 1789.

Proceedings of Congress.

HOUSE OF REPRESENTATIVES UNITED STATES.

THURSDAY, June 18. R. GOODHUE observed, that the great object of the present constituti-on is to provide those powers, which we suffered so much for the want of,

declares is vested in the president, and although this power enables him to remove an officer, yet the power cannot continue an officer in his place, without their consent, however great a favourite he may be.

Mr. Gerry observed upon the danger and impropriety of the committee's undertaking to expound the con-Aitution, or to construe its various parts: the clause in the hill has been cailed a declaration of the sense of the committee on the meaning of the constitution; upon this idea it ought to be denominated a declaratory act; but he contended, that congress had no power to make

a declaratory act. Mr. Sherman-The more I hear the question discussed, the more I think the clause should be struck out: It is said that the power is vested in the president by the constitution; if so, why should we officiously go to tell the president of it? It appears to me it would be more proper to leave the matter to his determination-According to the constitution the president is aurights and privileges of the nation, by giving all the not fill it without advice of the senate. power of government in a measure into the hands of the executive branch.

It has been said, that the senate are considered as a council of advice; but I think they are not confidered in the constitution as merely an advisory body; their consent is also necessary in appointments; and they should have the power of dismission consequently:--Those who do not suppose that the constitution vests the power in the president, and are in favour of the claule, suppose that the power should be given him by law: this would be fater, than conftruing the conftitation, as conveying fuch a power: but it appears to me, that the bett way will be to leave the constitution to speak for itself whenever the public exigencies may require it; and not to make a declaration, which may involve consequences unfavourable to the freedom and happiness of the people.

Mr. Ames faid, it was difagreeable to aik the attention of the committee, when their patience was already weary, and their curiofity fated; still he hoped to be of some use in bringing the various arguments to a

warned with great tolemnity to forbear this inquiry.

The executive power is rested in the president. If the continuum ned flopped there, and had not defined ary duties, either he would have had no power at all, or he would derive from that general expression, all the powers properly belonging to the executive. The ichate's power of advice is an exception from the rule. This exception must be construed strictly to reconcile the constitution with itself. For without the power in queliton, how can be see that the laws are executed, as he is required to do? It is the control over officers.— Take that out of his hands, and he is stripped of the power of his office. He is no longer rep

he must be made to answer for what he ca The senare not only acivite secretly, but discretion may direct. They are not antiblame divided among to many will fall up

We are servants, it is true; but we are watchmenand we should be unfaithful in both characters if we should so administer the government as to destroy its great principles and most essential advantages.

This power feems, therefore, to fall within the lawful limits of the president, to be necessary to control officers, and to preserve to the executive his indepen-

If gentlemen on the other side should not be satisfied with this construction, a conclusion almost as strong refults from their doubts as from their assent; for they must bring more proof of the senate's power of addescription is the power which the clause in this bill has not imposed any duty upon the senate, which this men? construction in favour of the president will prevent being done; nor is there a fingle letter or clause, which come conspirators against it. The executive should be of impeachment residing in the senate, the president by any fair or unfair construction, is opposed to it. - so far independent as to deseat any attempts by either The argument drawn from the constitution rests solely of the legislative branches to usurp his prerogatives .-upon this principle, which is not to be found in it, but In every possible event his power should be exclusive of is said to be reasonable, that the power of removal from their partnership. But the proposed executive control office is incident to the power of appointing to office. of the senate is setting that body above the president. This is an assumed principle, and it denied, cannot be It tends to establish an aristocracy by law; and at the proved. Certainly it is often not true. But if true, moment of endangering the principles of our free and it is not favourable to their doctrine; for the prefident excellent government, the people are to be amused with has expressly the power of nominating and appointing, the found of liberty: for in this lies the danger to lithough he must obtain the consent of the senate. He berty: it infuses a principle of mortality into a governis the agent. They may prevent action, but cannot ment, which the lovers of mankind have wished might act. It is not easy to illustrate this point by examples last to the end of the world. With a mixture of exewhich will exactly correspond. But suppose that a curive and legislative powers, no government can long man devises to his executor land, to be sold (with the remain free. With a corrupt executive liberty may advice of a certain person) on certain conditions: the long be preserved. But with a corrupt legislature it is executor sells with the consent, and upon the conditi- impossible. A government so formed would be the ons required in the will: the conditions are broken: most formidable curse that could befal this country.shall the executor re-enter for the breach of them; or Probably an enlightened people would foresee and thorifed to do every thing necessary to discharge the has the person whom he was obliged to advite with in amend the error in season. But if time was allowed duties of the executive; but it is considered, that by the sale any power to restrain him? The executor may for such a compound to produce its natural effects, it restricting him from the power of appointing and re- remove the wrongful possessfor from the land, though would either banish liberty or the people would be moving officers at his will and pleafure, the liberties of perhaps by the will he may hold it in truft for some driven to exercise the primary rights of nature, and to the people are more effectually secured. The exercise other person's benefit. In this manner the president destroy a monster which would destroy them. He adof this power in England has swallowed up all the may remove from office, though, when vacant, he can- mired the free principles of the constitution, and should

We are told that it is dangerous to adopt constructi- principles. ons, and that what is not expressly given is retained. Surely it is as improper in this way to confer power

upon the senate as upon the president.

The result is, that if the power is not in the president solely, it is clearly not in the president and senate. For the very arguments which make the former doubtis in the disposal of the legislature.

Certainly we shall not, of choice, confer it on the fenate. For the doubt whether the president is not already entitled to it, is an argument against placing it in any other hands. Besides the senate is not always fitting—is not responsible. It is out of their line of duty as legislators: they are to try, not accuse offenders: they are not to give orders, but on complaint to judge of

the breach of them. branch, it is agreed to be in the president alone, or in avoid trusting it out of our hands. What is intended the president with advice of the senate: but we are by this? To the people it is of no importance as it It is faid to be unnecessary and dangerous. It is true cers: they can neither gain nor lose power by it; for we may decide wrong; but we are bound to decide. the question is only which of their servants shall have We are as much fivorn to exercise lawful powers for the power already granted. Wife and worthy as the the common good, as to refrain from assuming powers senators are, the power in their hands will not only not given us. We are as responsible for forbearing to tend to abuse, but cannot tend to any thing else. Maact, as for acting. Shall we leave this question to be my free governments have been subverted. The world contended between the president and senate? Is it not has profiled by their experience, and agreed upon cerdifingenucus to tay, it is too perplexed, and too im- tain maxims: that all power is a trust; that to prevent portant for us to determine, and to throw the burden abuse it must be distributed into three branches, who a toupon the prefident? After to long debate, a de- must be made independent, and to watch and check chemmust be had. It could not be avoided by striking one another. If all power is given to the executive it the words out. That was deciding. We must resolve is a despotism. If the senatorial branch is invested it for ourselves, as it may never come before the with the executive authority, it is an aristocracy, which of all tyrannies is the worit. As one usurps the powers of the other, or has them conferred upon it, the government will vibrate towards one of these points. These are to watch one another, and the people to watch them all-and liberty may long be lafe. Neglecting or despiting these maxims, the ancient commonwealths were destroyed. A voice issues from the earth which hides their ruins, and proclaims to mankind the facredness of those truths which are at this moment in controversy. It is faid that the constitution has in fact blended the legislative and executive pow-This has been an objection against the constituti-It is true, we should restrain, not extend the evil. But perhaps with the fole power of removal in the prefident, the check of the senate in appointments is proper: it is merely a check: it affords the most solid anfiver to the objection. There is much less objection to

the advisory power in appointments than in removals from office. The first may prevent a man's coming into office, but the latter holds him in office. The first is the transaction of an instant; the latter a permanent thing. It creates a continued connexion. It is obvious how this will nurse faction; how much it will promote intrigue to procure protectors, and to shelter tools. It is infusing poison into the constitution. It is an impure, unchaste connexion; there is ruin in it; it is tempting the integrity of the senate with forbidden fruit. It should not be possible for a branch of the legislature to hope for a share of the executive power, under the old confederation. It is viling, or admit the power to be in the president alone; which they are bound to watch: for they may be clearly within the meaning and defign unless they prefer rejecting both doctrines, and agree tempted to increase the executive power, by the hope with the constitution, that all those pow- to dispose of the power as it may be expedient. In of partaking in the exercise of it. People are seldom ers which are necessary to carry the government into ex- that case, the dreadful array of objections drawn from jealous of their own power, and if they may become ecution, should be veited in the several branches; of this the constitution will avail nothing. The constitution partners with the executive will they be suitable watch-

Instead of being champions for liberty they will bevote for the clause on account of its conformity to those

FRIDAY, June 19. Mr. Baldwin-I have telt, Sir, an unusual anxiety during the debate upon this question, as I consider a proper decision upon it of almost infinite consequence to the government.

The main objection to the clause is, that we shall ful, make the latter absurd. Because the question was violate the constitution, by giving this power to the not free from doubt, he was fafe in voting for the president—we have been reminded of our oaths, and words in question. If the senate has not the power, with great solemnity warned against this violation; but which the arguments on both fides prove with almost in my opinion gentlemen should alter their mode of equal force, then the president is vested with it, or it expression, and say, that their constructions of the constitution will be violated.

The principle ground of opposition to the constitution, as I am authorised from the best information to say, was the affociation of the president with the senate:-Shall we not do away this objection by drawing a line of separation as far as lies in our power?

It has repeatedly been said, that the power that appoints should be the only power to remove; but I deny the consequence; it does not follow; the judges only We are warned against betraying liberty: We are are to be removed by the senate; the power of removal If the constitution has vested this power in any told that all power tends to abuse; and yet we cannot does not, and ought not to exist in the power that ap-

This principle is not pursued by the senate itself in respects their power. They cannot remove bad offi- the judiciary bill; there the power that appoints the inferior officers of the federal courts has not the power of difplacing those officers.

If this had been the sense of the convention who framed the constitution, the clause, "to be removed in like manner," would have been added.

The maxim among the wifest legislators is, that the respective branches should not be blended any further. than is necessary to carry their separate powers into more complete operation.

If experience should point out the necessity of uniting these powers, it may be done; but what is the consequence apprehended from the exercise of this power? Why, gentlemen are afraid that the president may turn out a worthy man! It is his life, fays the gentleman from New-Hampshire.

But the president cannot keep in an unworthy officer; he may be impeached by this house: this is an effectual check.

If the constitution had provided for every contingency, instead of being contained in a sheet of paper, it would have swelled to a folio volume.

But the president may turn out so many that the senate will find it difficult to procure officers.

It should be remembered, that if a misunderstanding should arise between the president and the head of a department, it is necessary that he should be removed: but every thing we hold dear is to be proftrated by the power of the president!

He is however to be elected every four years, and the jealoufy of this people is ever alive to catch at eve-