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DEBATE ON FOREIGN INTERCOURSE

[Continued.]

[Mr. Crank's observations are republished on account of an error in the arrangement of them, in yesterday's Gazette.]

Mr. Crank. At this stage of the present debate, and when I inform the Committee that I do not expect any observations which I can expect, will make an impression upon the Members, it might be expected that I should make some apology for rising at this time. I have an apology, however, in the importance of the subject under discussion, and in the conviction that it is my duty to take the most public method of expressing my opposition to the principle contained in the present amendment. Were it not for these considerations, the present state of my health would strongly forbid my mixing in the present debate.

Having been prevented by indisposition from hearing the whole of the debate upon the amendment now under consideration, I am obliged to depend upon the statement which has been given by the reporters of the debates, as to a part, and particularly the introductory observations of the gentleman from Virginia, who brought forward the amendment which has produced this lengthy and passionate debate. That the debate should be long and passionate, is matter of no surprise. Had I been accustomed to look for conciliatory public conduct in that gentleman, I might, perhaps, have expected that as on a late and important occasion, he expressed such a strong desire for harmony and unanimity, and urged in favor of a postponement of the discussion, to a very distant day, the evils that were to be apprehended from the excitement of party and party warmth. I say, Mr. Chairman, if I had calculated on the ground of what had taken place, I might have expected that, on the motion of the gentleman from South Carolina, to go into the consideration of this bill, a motion for postponement to a future day would have come from the member from Virginia; for, that the present amendment would have been delayed to some future session, when, in that gentleman's opinion, the danger from irritation might be less, or harmony and union not so much important as at present—for I will venture to say that the present amendment brought forward by that gentleman, involves principles, which, in its very nature, is of all others the most likely to produce excitement in this House, to call forth criminal accusations and recriminations, to bring into action all the spirit of party, to let all the other passions which have so often agitated this body, and, in short, to produce a political warfare of opinions, the most opposite, deep-rooted, fixed, and irreconcilable. But whatever change of circumstances may have taken place, to reconcile the gentleman's change of opinion to himself, as to the necessity of harmony, and the danger of irritation, then and now—I do not consider of his want of firmness on the present occasion; nor, notwithstanding the professions of a different disposition, which have been made, am I at all surpris'd at the avidity with which the present opportunity has been seized, not only to establish a principle dangerous to the very existence of the Government, but to indulge himself, with those who have followed him, in the most unmerited suspicions, envenom and animosity, not only of the Executive, but of all the members of this House, who have differed with him in their political system of opinions. I say, Mr. Chairman, I do not, nor ought I to complain, because I am free to confess that I am one of those (I repeat one of a few) who have believed, as least for some time past, that, from the state of party in this House, little was to be expected from attempts at union and harmony—that nothing was to be obtained by concession: I have therefore resisted every temptation to abstention, from considerations of this kind; and have determined to do what I think the interests of my country require, and that I should be ready to receive upon me, without concerning myself, as I may be received by those who are equally ready to do me wrong, as I have a right to do to them.

Mr. Chairman, the I was not at all surpris'd at the amendment which is now brought forward, nor at the observations by which it has been introduced and supported, for when I take a retrospective view of the conduct of opposition, I find the present attempt to be another link to that chain of unsuccessful efforts, which was begun from after the organization of the government, and has been lengthen'd out to the present moment, as on a former occasion—efforts to establish a principle which, if supported by a majority of this House, and by the people our constituents, must inevitably, and in my view of the subject, very shortly, (subvert or material) change the present established government.

This principle involves, in my opinion, a very plain, obvious, and simple question. Shall a majority of the House of Representatives absorb and draw to itself all the powers of this government, which have been distributed into different channels, or departments; or shall each department of the government be supported by the others in the exercise of its constitutional functions? And is it not equally the duty of a member of this House to defend and protect the other departments, while moving in their own appropriate spheres, as it is to maintain and employ that portion of power which the constitution has intrusted to them? This is a question which, though repeatedly settled, so far as a decision can avail to this purpose, is yet one of the utmost importance, and will continue to be, as long as it shall be open to discussion; which I believe will be the case so long as the House is composed of its present members. This principle is one, among many others, the contest about which strongly characterizes party in this House. Perhaps this expression, of party existing here, may give offence to some; I am not very solicitous about the choice of words; but if I were, I profess to be at a loss for a more appropriate and fit expression of the opposition and marked enmity of opinion, which has prevailed in this House since I have had a seat in it, and which, I trust, will continue to prevail as long as men are firm in the present shall be advocated. So long as I shall hold a seat here, I shall boast of being one of a party, who, by every effort in their power, shall resist this and many other characterizing attempts. Were I to deny the existence of party here, I should rigue an assertion in the very teeth of every day's observation—I should shut my ears and eyes to the very conclusive evidence which the present debate affords. If such is the fact, and it is no secret out of the walls of this House, why deny it? The acknowledgment is necessary to the cure of the evil; for, Sir, divided as we are at present, I consider it a most serious evil, and one that threatens much mischief to the country. That Party does exist in this House, the people are not now for the first time to be told; but that Opposition is now become so systematized, the line of separation so broad, and (if the objects pursued are the same) the means of attaining them so different, that the present House of Representatives can never be expected to harm one and unite, is a truth which the people are not sufficiently impressed with, and which, I trust, will continue to prevail as long as men are firm in the present shall be advocated. So long as I shall hold a seat here, I shall boast of being one of a party, who, by every effort in their power, shall resist this and many other characterizing attempts. Were I to deny the existence of party here, I should rigue an assertion in the very teeth of every day's observation—I should shut my ears and eyes to the very conclusive evidence which the present debate affords. If such is the fact, and it is no secret out of the walls of this House, why deny it? The acknowledgment is necessary to the cure of the evil; for, Sir, divided as we are at present, I consider it a most serious evil, and one that threatens much mischief to the country. That Party does exist in this House, the people are not now for the first time to be told; but that Opposition is now become so systematized, the line of separation so broad, and (if the objects pursued are the same) the means of attaining them so different, that the present House of Representatives can never be expected to harm one and unite, is a truth which the people are not sufficiently impressed with, and which, I trust, will continue to prevail as long as men are firm in the present shall be advocated.

of votes notwithstanding the same gentleman's denials from a supposed dissimulation of some members of this House to attract public attention, that this is an admission, on their part, that the people are against them; and notwithstanding the gentleman's boast of their support, I feel no difficulty in making the trial, or frays as to the final result. If indeed, I supposed that the people gave credit to a mass-hall of insinuations, affirmations, and combinations, which have been made on this floor, and out of it, on this, and on other occasions, against the Executive, and those who have generally supported him, as a consistent part of the government, in the exercise of his constitutional powers and duties, however I might be misled if they were insinuated, I should certainly have little reason to calculate upon their support. What effect these charges, so often repeated and unprovoked, may have, I cannot pretend to say; but they have had a certain effect already, I have no doubt; that they have not only answered the end, in order, it is to be attributed to the good sense of those to whom they were addressed—to their capacity of distinguishing and judging for themselves.

I acknowledge the talents of members would be more properly employed in convincing and informing each other. The style of debate which has lately prevailed here, is but little suited to this object; nor do I believe that much impetus is made by it within these walls. But little that has recently taken place could be intended for members of this body; it is time therefore to follow it where it is designed to have an influence. Mr. Chairman, I wish not to anticipate a crisis in our affairs, which present appearances seem to promise is all approaching; should it come to call for all the energies and resources of our country. It will be then of the utmost importance that the Executive should possess the confidence of his countrymen, and that those men who have upon all occasions expressed a disposition and readiness to exert the means of the government for a defence and protection, should stand well with the people; that their conduct, their views, and motives should be explained, and free from all imputations which have on this and upon former occasions been heaped upon them.

I have already, Mr. Chairman, observed that I considered this amendment as involving the same principle which has most pertinaciously upon every occasion which has presented itself been contended for with all the unity and talents of the party, and that I considered it one, which if established in the latitude contended for, would fundamentally change if not destroy the constitution under which we live, and which we have sworn to support. The first attempt at the establishment of the right in the House of Representatives under the appropriating power, to exercise an unrestrained discretion upon an act done by the Executive, within the limits and under the authority of his constitutional powers, was in the memorable case of the British treaty. On this occasion, they contended for the right of defeating an act of the President and Senate, by withholding an appropriation necessary to carry it into effect. The next in point of time, was on the most establishment, where after a law had passed, sanctioned by all the forms which the constitution prescribed, an attempt was made to defeat its operation by withholding the appropriation of money necessary to its execution.

A third and similar attempt was made to defeat the execution of the law for the building and equipping of the frigates. Another effort was made I believe during the same session, by withholding an appropriation for carrying into effect the law fixing the military establishment of the United States in far as relative to a troop of horse. Now these three bills, relative to a repeal of the law for as relative to this troop—the repealing law passed both Houses of the legislature, and was sent to the President for his consideration—he returned it with his remarks of dissent, and there not being a constitutional majority in its favor, it failed. After having gone through all the stages, which the constitution requires, and having been weighed and considered, the sense of the legislature was fairly expressed that the law authorizing this troop of horse should not be repealed, but that the troop should continue; notwithstanding all this, and that it required two thirds of both branches of the legislature in this situation of the business to repeal the law, it was contended in the House of Representatives, that a bare majority of that body had the constitutional right of defeating it by withholding the appropriation necessary to support it, and an attempt was made to that effect.

The next memorable case is the one now under consideration, where an attempt is made to break down, destroy and alter an establishment made by the President of the United States, under authority given him by the constitution.—I do not propose to trespass upon the time of the committee by a separate consideration of each of these cases, because the House are already in possession of the debates upon them, and because a very few plain and simple reflections upon a collective view of them, will show the danger of the principle, which is the same in all of them, when carried into practice. The use which may be made of it, and the means adopted to give it success.

If a bare majority in the House of Representatives can act as a check mate to the President of the United States in every case where in the execution of his constitutional powers, he may have money to give effect to his acts—if this same majority can defeat the operation of a law solemnly sanctioned by the three branches of the legislature, when that law shall require money for its execution (and most laws of importance are of this description), then Sir, is every branch of the government brought at the feet of a majority of this House? Away then with the boasted independence of the different departments; there is an end of that happy and wise distribution of power, which I fondly hoped and supposed this constitution possessed—there is no longer stability in our affairs, there will be no longer confidence or security in our government.—In vain is it that the framers of our constitution intended to give stability to our doings; in vain do we look for stability and wisdom in the constitution of the Senate, or energy, decision and promptness in our Executive; they are prostrated; their powers all vanish at the magic touch of the representative wand. But, Mr. Chairman, ground to untenable, attempts to hardy, required every address and management to support them. The partisans of this innovation upon our constitution, have addressed themselves to that natural tendency of all public bodies, rather to increase their power, than to be satisfied with what they constitutionally possess—they have endeavoured to enslave the people on their side, by creating jealousies and suspicions of the Executive, by attributing to the departments different interests and views from those of the people; they have endeavoured to impress them with an opinion that whatever power is taken from the other branches of government, and added to that of the House of Representatives, is so much regained to the public stock—every attempt at resistance to these

doctrines, who herein this case, out of a charge either to the Executive or to the House of Representatives, to the representative and republican form of government. Mr. Chairman, it is because those men are truly attached to the distribution of power under the present form of government, because they are equally anxious to preserve that balance and harmony which the framers of the constitution intended, that they have, and to defend the whole, by giving such part its power of action—I say it is because they are against any the least change, which is alluded to in the present amendment, and other gentlemen of this House, upon the present and other important occasions.

Though a member of the House of Representatives, I have no particular attachment to any one branch of the government compared with another, nor do I believe that any one department of government is the peculiar favorite of the people. Whatever concerns may be drawn in this House between this branch and the other, I consider without these walls. The people are not now to be informed that all power emanates from them, and however distributed, those into whom it is entrusted to be employed for the public good, are responsible to them for the proper use of it. They see in the Executive a department as necessary as responsible, and as much entitled to their confidence and support as any other in the government. They have not created an office, and elected a man to fill it, for the purpose of making him the object of their suspicion, fear, jealousy and opposition. Instead of authorizing the House of Representatives under the idea of checking his conduct, to thwart every measure that may proceed from him—Instead of forming the House of Representatives into a court of censors, or an inquisition to pass upon the acts of the other departments of the government, they have more wisely imposed checks in the very constitution of the departments themselves.—They have in the Executive department, a security which cannot be abused, in the manner of his selection and the time for which he is elected, in the high responsibility of his situation, in being equally the object of punishment with every other servant of the public, in the impossibility, from his situation and power, of having interests distinct from the wants of citizens, into which he must shortly return—but they have another, Mr. Chairman, and not the least important; he must be a native American or a citizen, prior to the establishment of the present government, and therefore capable of taking a warm interest in the prosperity of his country, and feeling the pride and influence of the true American character.

Was a stranger to our constitution and form of government to hear the repeated observations in this House of executive influence, of the danger of executive patronage, and the jealousies expressed of the abuse of power; when he shall see the animated eloquence of gentlemen called forth (by a constitutional act of the President in the appointment of a foreign minister) to paint in glowing colours the danger of his influence and patronage being extended to members of this House, I say such a man, without any other information, would naturally suppose the President to be some despotic foreign vicary, entrusted with absolute power, and holding the purse strings of the nation, feeling no attachment to the people over whom he was placed, and having no responsibility attached to his situation. What, Mr. Chairman, would be his surprise, and to what would he attribute such conduct, when he shall be informed of the real situation, power and character of this man, when he shall be told that he is the representative of a free people, freely chosen by them from the mass of citizens, and selected for his virtue and talents.

When once the Executive of this country loses the confidence of the people, when once they withdraw their support from him, there is an end to it, and to the government. That the Executive influence and patronage is to be dreaded under this government is too ridiculous for serious consideration.—It may be a spectre with which to frighten weak minds, to alarm children, but can never enter into the fears of men of common sense. Gentlemen may suppose it may answer their purposes, if thereby they can excite an opposition in the House supported by the people without, against the exercise of executive power; with such an opposition, in such a warfare, every other department of the government must fall. Then indeed would the House of Representatives possess an uncontrolled power; then it will have arrived to that tyranny which some gentlemen say republican governments have a tendency to; then indeed will the government be changed—but from such a government, and such a tyranny, I pray heaven to defend me.

Shall then those who resist this tyranny be branded with the character of men wishing to extend the executive power to the destruction of all others? Shall they be incessantly represented to the people, as acting under executive influence, as being the mouth of the Executive, as being the partners and champions of executive power? And shall they be sarcastically called the heroes of the constitution? Is this a fit time to denigrate jealousies and suspicions of this kind against the Executive? Are the best talents of the country to lose their effect from inculcating an opinion that these efforts are produced by the influence of executive patronage? And shall every man who happens to think with the Executive, in the proper mode of administering this government, if he has talents sufficient to attract attention, be considered as a candidate for public office; or taking measures to promote his election? These are not imaginary charges; for the gentleman from Pennsylvania (Mr. Gallatin) must excuse my not considering his judicial explanation, the other day, as sufficient to take of the impression which the whole tenor of his observations would necessarily make. If he believed the mischief which he apprehended from executive patronage, and of its being used with effect upon this House were distant, why appeal the present bill on this ground, which does not contemplate an exercise of patronage? And why charge the Executive with making appointments from the legislature? Why talk of gentlemen in this House having commissions in their pockets

of the expectation of office, whilst advocating measures which were to make way for the appointment? And why go into a nice calculation of time between a former appropriation and the appointment to office of a member of this House? No man who heard that gentleman's observations, no man who reads them in the public prints, can doubt of the great injury they were intended to have. They ought not, therefore, to have passed unnoticed. But where are the leaves and fishes which are supposed to be so dangerous in the hands of the Executive? The President must have the power of working miracles with them as of old, in their distribution more should fall to the share of any public officer than is necessary for a bare subsistence.

But, Sir, why the present alarm, why this hostility against the Executive upon the present occasion. Has the Executive done more in this instance than the constitution has authorized him to do? Are we qualified to say, he has unwittingly exceeded the power intrusted to him, have we the information necessary to form an opinion—may there not be information which we do not possess, and may it not be improper in the President to furnish us with it—shall we decide blindfold, or the President, to whom the constitution has given the right having decided from all the information before him, shall we not suppose that to be rightfully done which is constitutionally done. If the House has a right to determine there shall be no foreign ministers, they have a right to determine there shall be foreigners, how many, and where. Is the Executive in that case bound to take their advice, if he is, may this House not as well say what those ministers shall do. This House has the power of refusing the necessary appropriations; have they the constitutional right? The President of the United States is a constitutional officer—this House must furnish his support—they may suppose this officer possesses power dangerous to the liberties of this House and to the people—they have the power to refuse an appropriation. No man will be hardy enough to contend we have the constitutional right—the same of the judges who are created by law and appointed by the President—here the legislature act under the express authority of the constitution and create the officer; can this House refuse rightfully, to appropriate for their support? So in the present case the President is a constitutional officer—he is directed by the constitution to appoint foreign ministers; it is as if the constitution had appointed them itself. Here, as in the case of the judges, is no authority given to the legislature to create those officers. The right is in strong terms taken from the legislature. To have the right to make foreign ministers or to displace them, we must have the right of foreign correspondence and the superintendance of our foreign relations or how can we judge of the fitness or unfitness of the measure; we must also judge of the propriety of making treaties since they will require ministers to make them—will those powers be contended for? But here is an officer appointed to an office not created by law—it is now proposed to recall or displace him; can this be done but by the same authority that appointed him. The appropriation was fixed by law, the officer was created by the President—the President who judged of his appointment, must judge of his recall.

I do not undertake to determine, nor do I think it necessary at this time, and in this place, to express an opinion upon the general question of the policy of this government in maintaining a political connection with the other nations of the world, or of the propriety of an extension or reduction of our present diplomatic establishment, because I do not believe I possess all the information necessary to a correct opinion upon the subject; and because such opinion could only be considered as that of any other individual of the community, and should have no effect as coming from me in my representative character. I believe the constitution has given to the Executive the right to decide upon this subject: the President can have the best advice of the nation, and will, no doubt take it; if he shall at any time be of opinion with this advice, and all the information before him, which his constitutional character furnishes him with, that the interests of the country will be promoted by a reduction of the diplomatic establishment; as he has the right, so I believe he will be disposed to exercise it. As the people of the United States, and myself among the number have thought he could be safely trusted with the exercise of this right, I am not disposed in this ex parte manner to question either his wisdom or integrity, by withdrawing my support from him.

Nor do I consider it necessary on this occasion, to vindicate him against a charge of a supposed resolution on his part to elect to office only such men as shall in the general accord with him in opinion, as to the best mode of administering the government; because I do not consider that such a resolution, if adopted, requires defence, inasmuch as I believe it would be justified by common sense, common prudence, and common experience. Nor can I admit that the supposed difficulties which have been suggested by gentlemen in this debate, viz. the member from New-York (Mr. Livingston) and the member from Virginia (Mr. Brent) are objections to the adoption of such a resolution, if indeed, I believed that the time would shortly arrive, when the Executive should be reduced to that situation for want

of talents or integrity, among those who generally approve of the measures of government, as to choose him either to make the selection to office from a contrary description of character as to political opinion, or as the member from Virginia (Mr. Brent) has expressed himself, to hoist into office demagogues, who have no other recommendation than their own passions, to give Hallowell's to Executive power and influence, I should consider such an event much to be deplored; then, indeed, should I be willing to give some force to those objections, but as I will not unnecessarily to distress myself, I shall not anticipate an evil which I believe to be as distant and as remote as it would be serious and alarming if at hand.

Nor, Mr. Chairman, do I think the gentleman from Virginia (Mr. Brent) has been very fortunate in the choice of character which he has made to invalidate the truth of an observation which has been frequently made, viz. that the Executive had no influence derived from such rule, in the appointment to office without having melancholy cause to lament it. As this gentleman has thought fit to bring more immediately into view this character, which he says is well known, to have been frequently alluded to, during the present debate, I thereto might fairly concede all that he has intended for him on this occasion, without being considered his paucity: I might admit with much truth, that we owe our present situation with the French republic to that gentleman, and if it will be any gratification to the member from Virginia (Mr. Brent) or those who have pursued the same political line of conduct, I am willing to allow them a participation of those measures which have produced this situation. If this situation is as the gentleman from Virginia has insinuated an enviable one, if it is one on which we have abundant cause to congratulate ourselves, then, Sir, I agree they shall have all the credit which their efforts so well entitle them to: if, on the contrary, this situation is such as every friend to the interest, the honour, and the peace of the nation has reason to lament; then will I not dispute with them the obloquy and censure which their conduct may justly merit. This is a question which I undertake not to decide, in the language of the member from Virginia (Mr. Brent), I leave it to the understanding and feelings of the country to determine.

Whilst taking notice of the observations of the gentleman from Virginia (Mr. Brent) I cannot omit observing upon the unfair statement he has made of the remarks of the member from Connecticut (Mr. Griswold) upon the subject of checking the government. If I understood that gentleman, the distinction which he took between the system of the member from Virginia and his own, was clear, explicit and intelligent: he admitted that checks were to be found in our government, but that they were checks operating within each department, he denied that the departments were checks upon each other; and he went on to exemplify and explain his distinction in a manner which could not be misunderstood, but by the confused ideas of that gentleman upon the subject. He contended for instance, that the legislative department had constitutional checks within itself; that the House of Representatives was a check upon the Senate, the Senate a check upon the House of Representatives, and the President, who in this respect is a constituent part of the legislature has a check upon both: that in the Executive department the Senate was a check upon the President. But he denied that the legislative department was a check upon the Executive, the Executive upon the legislative, or either upon the judiciary. His ideas upon this subject I will admit were very different from those of gentlemen who advocated the extraordinary doctrine of checks, introduced into this debate by the mover of the present amendment.—The checks contended for by those gentlemen are intended to produce an eternal state of warfare and hostility between the several departments of the government, that contended for by the member from Connecticut (Mr. Griswold) is designed to promote harmony and a co-operation of the departments; according to those gentlemen's system, the moment of harmony, conciliation and union is the moment of danger and alarm.—That moment the government is in such a situation as that it can act with any valuable effect, is the time to sound the alarm, is the moment for this minority to exert themselves in stirring up internal war and dissension in the departments. If I believed with the gentleman from Virginia (Mr. Nicholas) that such must be the operation of republican governments, I should then agree with him most readily in another opinion which he has expressed, that republican governments had a strong tendency to despotism and tyranny, for I will venture to assert, that out of such confusion, such disorder, such a warring and hostility of departments either anarchy or despotism must necessarily and shortly arise. But, Sir, I fear there is but little probability of the apprehension of the member from Virginia being realized in that harmony, union and co-operation of the departments which I consider to be desirable in our government, and so necessary to its useful operation, so long as he shall be a member of either of the departments. According to his own principles it will be his duty to keep a watchful eye upon their approach to this point, and to sound the alarm; and though he should be one of the virtuous minority in this House, I have no doubt but he is sufficiently known out of this House to at-