

# Gazette of the United States.

[No. XXI.]

WEDNESDAY, JUNE 24, 1789.

[Published on Wednesday and Saturday.]

THE TABLET.—No. XXI.

*It is to be lamented that men will be making themselves greater fools than nature intended they should be, by endeavoring to make themselves wiser.*

THERE are some minds that are naturally so weak or wrong-grained, that every attempt to improve them seems only to create their inherent imperfections. When a man of this stamp is destined to a laborious occupation, his mental crookedness and defects are so concealed, that he may be a fool all his life, without giving any striking demonstrations of his folly. But should it happen that he is born to better fortune, as he will call it, he will go on diverging further and further from reason and propriety as long as he lives. We will suppose his time is devoted to literary researches. In commencing his education he sets out with some vulgar prejudice, he had imbibed in his infancy; and the fallacy of which, his mind is too weak to detect. Every step he takes in learning is only calculated to render his folly and weakness more visible. That knowledge which is founded in the reason and nature of things does not assimilate with his former impressions. Through the whole tenor of his life, his mind seems biased both from nature and habit, against the reception of truth. There is a propensity in his understanding to distort or adulterate every idea, upon which it is exercised. His discernment is so defective, that every error, he adopts from prejudice or caprice, becomes a perpetual one. It is incredible what a mass of incongruous opinions, and ill-formed images can enter into a single mind, where there is not natural sagacity to correct false impressions by experience.

But it may be supposed that these error-making people have an opportunity of acquiring such information, as results from seeing the world, in walks of life that are fashionable and elevated. Here it may be expected they would adopt a juster way of thinking. The event however will prove otherwise. It must be confessed, they sometimes have capacity to learn how to regulate their exterior deportment, by some rules of fashion and propriety; though I have known instances, where their natural perverseness prevailed, even in this respect. To say nothing more of their manners, we will turn our attention to the course of their sentiments. These, it will be found, are perpetually fluctuating, but never change for the better. If they are laughed out of some follies, they are duped into many vices and follies, and every new turn is worse than the last. Their want of penetration unavoidably directs them to a bad choice of examples. Truth always eludes them; and their minds become the receptacle of polite errors, instead of the literary ones I have been describing. Such men never judge right of any thing they observe; and the less they see, or the less they know, the less deformed does their understanding appear.

When such men return from their travels, for they probably will travel, we can form no idea, without being in their company, what silly and useless parties they bring home. They determine nothing by any test of intrinsic merit, and will run into an extravagance of applause upon trifles too vain to be noticed; while they deal in anecdotes too improbable to be believed, or too uninteresting to be regarded. Their indigested opinions and half-stated facts convince every person who sees them, that such wrong-headed, or weak-headed travellers encrease their folly faster than their information.

Where such an imbecility or obliquity of judgment is deeply rooted in nature, I question whether it admits of any remedy. Obscurity may hide it, but study and observation can never improve it.

## SKETCH OF PROCEEDINGS OF CONGRESS.

In the House of REPRESENTATIVES of the UNITED STATES

WEDNESDAY, JUNE 17, 1789.

The question, *Whether the Secretary of Foreign Affairs should be removable by the President?* fell under consideration.

Mr. HARTLEY advocated the principle. He made some introductory observations on the necessity and importance of the office under consideration, and its intimate connection with the executive department; and maintained that in whatever hands this department was placed, the office ought to be immediately dependent on, and controllable by it. This was the policy of the constitution, and was the practice, he believed, of all nations with whom he was acquainted. It could not be considered an office held during good behaviour. The constitution had particularly pointed out those who held their places by this tenure; they were the judges alone. He conceived that the gentleman from South Carolina deviated widely from just construction, in supposing that the clause respecting impeachments extended to every office in the government. This principle would be inconvenient, mischievous and destructive to all decision in the administration. The same gentleman had, he said, contended that every man had a property in his office. This idea he hoped would never find advocates in this house.

In Great-Britain it had prevailed to a pernicious degree. It was the practice there to give a man a pension who was removed from office, in consideration of the interest which he was deprived of. He hoped we should never admit this corrupt and ruinous practice among us.

The gentleman, he observed, had questioned the right of the legislature to make a construction on the constitution, or in case it was silent, to supply the defect.—He could not agree to this. The instrument had expressly given it the power to make all laws necessary to carry the constitution into effect. If it was silent therefore, in any point necessary to be settled, in order to put it in operation, the inference was clear, that Congress had a right to supply the defect.

He concluded with some observations to prove that the power would be more safely lodged with the President than the Senate, and that the conferring the power of removal on the Senate would deprive the President of some of the most important executive functions, which few as they were, ought not to suffer the least diminution.

Mr. LAURANCE observed, that it had been objected against the clause, that the powers which it vested were unconstitutional, and not only so but unnecessary, as the constitution must contain in itself somewhere the power under consideration which it had given to some man or body of men. And therefore that it was unnecessary for a law to interfere, which could neither enlarge, diminish, or modify this power. If it was unconstitutional to give it to the President, it would only be because it had been vested in some other body; it had not been contended that the constitution had expressly vested it in the Senate; and otherwise it could not be said with certainty that it would be unconstitutional for the legislature to declare that the President should have it; but the objection had been collected from the nature of that body who had a voice in appointments, and from the clause in the constitution respecting impeachments. The constitution he observed, declared that the judges should hold their offices during good behavior. If this clause was to have any effect, it certainly must imply that there were other officers who held their places during pleasure, or for a limited time; for if all officers held their places during good behavior, and were removable only by impeachment, then the clause was useless. The person must have misbehaved before

he could be impeached. But if he were infirm or incapable, he could not be impeached, but must on this principle be perpetuated in office.

But it had been urged that we were to seek for the power of removal in the nature of the authority which appointed. Here he would be willing to meet the gentleman, if it were necessary to rest the cause on this point alone. He would ask who, by the constitution, had the power of appointing. It was true, it had given the Senate an advisory power, but it had considered the appointment to be by the President. It had expressly declared, that he should nominate and appoint, though THEIR advice was rendered necessary. This was given in the strongest language. The appointment was in the President, and in him should be also the removal. But it had been objected that it would be an extension of the executive power. This was not true; or if there was any weight in the argument, it would apply against the reasoning of gentlemen in favour of vesting the power with the President and Senate conjointly. If it could be said, that the President's functions and powers ought not to be extended, it could also be said that those of the Senate could not.

The constitution he said was silent on this subject; it was also silent respecting the removal of those whose appointment it had enabled the legislature to vest in the President, in the heads of departments or in the courts of law—but nothing about their removal. Now the legislature, having in pursuance of this authority, vested the power of appointing in the President, could the constitution be carried into effect if the legislature had no right to determine in whom the power of dismissing should reside? What was the consequence? Why, in those cases, the power of removal must be in the President, and the Congress must, from the necessity of the thing have the right to determine this. Of course, in cases where the constitution had originally given the power of appointment to the President, he must for the sake of consistency have the power of removal. Certainly no person would pretend that if the legislature should give the President the sole power to appoint in certain cases, and there was no special limitation of the office, that he should not in those cases have the sole power to remove. Thus then, he said, stood the business. There was no express words prohibiting the power; and all the ideas collected from inference pointed out the legality and propriety of vesting the President with the power; at least they proved that he had every constitutional right to it, which the Senate, together with the President could claim.

This had, he said, been called a case omitted: But in omitted cases in which a certain provision was absolutely essential to the administration, who was to make this provision and supply the defect? Undoubtedly the legislature. It was the only authority in any measure competent to it.

Mr. LAURANCE asked if any gentleman supposed that the power of expounding the constitution and of providing for the removal from office could be more securely trusted to the wisdom and integrity of one branch of the legislature than the whole; or if it would be more satisfactory to the people to have the power of displacing officers in the Senate than in the President? He said the people looked up to the legislature as their great security and the center of political wisdom. They naturally supposed that where any provisions were necessary to be made, constructive and declarative of the constitution, that from this source, and this alone they ought to spring. From all these circumstances, he concluded that the Congress had the right, and that it was their duty to supply the deficiency in the constitution.—The same constitution, which had given them the power of establishing offices, had given them a right of making all the particular provisions, whenever the constitution was silent, which were necessary to carry that general power into effect.

In the contemplation of the constitution, he observed the heads of the executive departments were mere servants and aids of the President. He had the superintendance, the controul, and the inspection into their conduct. They were not only to perform the regular duties of their function, but, to assist the President with their occasional council, and to answer all questions which he should put to them respecting the execution of their offices. These circumstances would give him such advantages of discovering the secret delinquencies, the faults, the deficiency of abilities or knowledge of those whom he employed, that he alone could be competent to an able exercise of this authority. Under such circumstances, would gentlemen deprive him of the power of pursuing the interests of the United States.

But it had been urged, said Mr. LAURANCE, that the trust was subject to abuses; that there might be wanton changes of officers, and revolutions in all the departments, on the accession of every new President.—He contended that changes were proper, when he who was the only judge of their necessity thought them expedient. A new President ought to have the power on his accession, to bring forward those men, in whom he was sure he could place the highest confidence. Under the guards and checks under which the chief magistrate acted, it was to be presumed that changes would not take place from capricious motives, but from principles of policy, and propriety.

He said he did not make his calculations of the safety of the administration upon the merit of the present chief magistrate, whose talents and virtues were the admiration of the world, but he had the best grounds to presume, that no man would ever be elected to that exalted office, who had not given abundant proofs of his abilities, integrity, and other great qualities requisite for such a station.

He begged gentlemen to consider that the President was liable to impeachment, for having displaced a good man who enjoyed the confidence of the people.

But it was not proper he said to view the subject on one side alone—the difficulties on one side as well those on another, ought to be contemplated.—He here mentioned the necessity, on the gentleman's plan, of the Senate being perpetually assembled, or of the President's convening them for the purpose of a removal, from the extremes of the continent. He instanced the case of a foreign minister negotiating and intriguing to the injury of his country, who before a sentence of recall could be procured from the Senate, might have completed his machinations, and involved the republic in ruin.

Mr. JACKSON conceived this to be altogether a constitutional question. He was convinced of the necessity of energy in the executive, but he was sure the liberties of the people deserved equal attention and care. Of two evils it was proper to chuse the least. It had been mentioned, that in all governments the executive necessarily had the power of dismissing officers under him. That might hold good in Europe, but it did not apply to our constitution, by which the President had not the executive powers exclusively. The Senate was associated with him, and investing them with any particular authority could not impair the energy of the executive. If this arrangement was wrong, the fault was only in the constitution, and it could be remedied only by amendment. He dreaded the dangers to which this power would expose us. It would establish a fatal system of influence in the government. We should have a treasury bench, and a crowd of the President's creatures in the house. His ministers would intrude here, and lead and govern the measures of legislation.

The gentlemen, he said, had contended that there might be cases where the officer was unfit for his station, by reason of infirmity,

incapacity, and other qualities not punishable.—He might sink into dotage, or be seized with a fit of lunacy. It was proper, therefore, that some silent remedy should be applied. It was true this might happen, and so it might happen to others, whom there was no mode of removing. Suppose the President should be taken with a fit of lunacy, would he not continue in office during his four years? Suppose the Senate should be seized, or the representatives themselves become lunatics, would not the people be obliged to submit to this mad Congress? We had already, he said, seen a King of Great-Britain a lunatic, and the same might be the case with our President; and although it was improbable that a majority of this house should be lunatics, it was by no means impossible. It was also urged, that the judges alone were to hold their offices during good behaviour. It was admitted that they ought to. But was not a judge, as well as other executive officers, liable to the act of God, which might deprive him of his faculties and his legal knowledge? Yet he must continue in office till impeached and convicted of some crime.

Was it politic, he asked, to place the officers in such a situation as to deprive them of all their independency and firmness? Had not the President the command of the army, and would he not have the treasury under his thumb? The secretary of the finances would never dare oppose him, and would leave him unchecked to exercise his powers. Then, he said, we might bid adieu to liberty, and all the blessings of genuine republicanism. He begged gentlemen to consider the deadly influence of the crown in England, where offices were held during the pleasure of the King. Let gentlemen turn their eyes to Sweden, and behold the monarch shutting the doors upon his Senate, and compelling them to submit to his despotic ordinances. He affirmed that the error of gentlemen lay in calculating upon the merit of the present chief magistrate, as if he was to continue for ever. With him he was confident every power might be lodged. But he was not immortal; the period must come when he would be taken from us. Could we be sure who would succeed him? Might not a man come into the office who carried a Pandora's box in his breast?

The business of construction, he observed, was a dangerous business. One of the favorite amendments proposed to the constitution was, a provision that all power which was not expressly given to the Congress, was retained. Under this idea, the constitution was adopted; and was it proper now to construe the constitution, so as to give extraordinary powers not before vested? The legislature had nothing but the letter of that compact to go by, and the moment a deviation was made from this, the House was making an arbitrary stride towards an arbitrary government.

Mr. JACKSON was willing to consent that in case of a recess of the Senate, the President might have power to make a temporary suspension. If an officer was guilty of any misdemeanor, he trusted that there would be always virtue enough in the house of representatives to impeach him.

Mr. CLYMER remarked, that were he to give his vote merely as it respected the constitution, he should be indifferent whether the words were struck out or not; for he was clear that the executive had the power of removal as incident to his department.—With respect to appointments, the Senate was only a check on the President, to prevent his filling offices with unworthy men. In the case of removal there is not such a necessity for this check; for suppose a worthy man should be dismissed, what great danger or inconvenience would follow from it? Must he not consult the Senate in filling the vacancy? and would he have a better chance of procuring their consent to advance an improper character, than in the first appointment? The presumption therefore, only was that one good man would be changed for another.

If the power was not given to the executive, he would want the best power of doing good. He would be an inefficient officer; would only act by the agency of others, and would be destitute of responsibility.

It would be entirely frivolous, he said, to call the people together every four years to chuse a President, if when chosen, he should be a mere cypher in the government, to nominate for the Senate to appoint; and to propose in order for the Senate to remove. It would be as proper to give the whole executive authority to the Senate at once. If this power was denied the President, he declared that the government would be as destitute of energy as any in the universe.

Mr. PAGE was in favor of the motion. He contended that the clause would establish a dangerous power in the hands of the President, and was in direct opposition to that clause in the constitution which provides for the impeachment of officers. He asserted, that the clause contained in it the seeds of royal prerogative. It appeared to him that every thing which had been said in the House respecting energy in the executive, might be carried to the destruction of a free government. This very energy so much talked of, had led many patriots to the Bastille, to the block, and to the halter. If the President might take a man from the head of a department without assigning a reason, he might as well be vested with a power, on certain occasions, of taking away his existence. The idea was not consonant to the principles of a free government, where no man ought to be condemned unheard; nor till after a fair and solemn trial. He would rather suffer for a time the mischiefs arising from the administration of a bad officer, than to see a dangerous prerogative vested in the chief magistrate, which might lead to despotism. He knew that gentlemen supported the principle from honest motives: He knew they were friends to the government, but he thought they were in an unhappy error.

Mr. SHERMAN was opposed to the clause.—He conceived that the paragraph in the constitution respecting appointments, was provided for some useful purpose; but it appeared to him that on the construction of the gentlemen, it would be defeated. He thought that the concurrence of the Senate was as necessary to the very nature of an appointment, as the nomination of the President.—They were mutual checks and had each a negative. He considered it as an established principle, that the appointing power should have the right to remove, except where there was an express restriction, as in the case of the judges, who held their places during good behaviour. Were it not for that restriction, the President and Senate might displace them. It was, he said, a general principle in law as well as reason, that the same authority was necessary to repeal as to establish. It was so in legislation. The several branches whose concurrence was requisite to pass an act, must also concur to repeal it. He supposed that if a law was passed, giving the President the exclusive appointment of certain inferior officers, he would also have the power of removing them. But this was not an inferior officer. He was placed at the head of a great department, and his appointment was constitutionally vested in the President and Senate. If gentlemen would suppose that this was a subordinate officer who was to be in aid of the President, there a question might arise, whether his appointment could not, by law, be vested in the executive? For being an executive officer, and the President being the great executive, the President might be supposed to be properly the head of that department. This reasoning however was not to be admitted.—He was an officer within the meaning of the constitution, who might have authority given him to make subordinate appointments, and therefore it was necessary that the Senate should have a voice in his appointment. As the office was a mere creature of the legislature, it might be limited in its power and duration: the officer might