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No. XXII.

SKETCH OF PROCEEDINGS OF CONGRESS.

In the House of REPRESENTATIVES of the UNITED STATES

THURSDAY, JUNE 18, 1789.

"There are impertinent books as well as impertinent men."

If some persons are prevented from acquiring useful knowledge by their intellectual incapacity; there are others, who possessing talents, fail of important attainments by wearing away their time in trivial studies. A person generally supposes he gives a satisfactory account of employing himself, when he can say he has been engaged in reading. He may however deceive himself as well as others in this respect. It is not more common or more disagreeable to find men deficient in their ideas, from a neglect of books, than it is to observe them bloated with notions that are false or frivolous, by an injudicious choice of authors. An acquaintance of mine, who is celebrated for his literary taste and ingenuity, invited me the other morning to look at his library, which is said to be an excellent one. If novelty gives a claim to merit, my friend deserves great praise for his collection of books; for he certainly has filled his shelves with such performances, as scarce any man but himself would ever think of purchasing. After expatiating upon a variety of authors I had never heard of, and a still greater number I had never read, he told me he had taken immense pains to ascertain every minute circumstance relative to the building of Noah's Ark. No history either sacred or profane, that threw any light upon that interesting subject, had escaped his notice. It is, he said, to be regretted that the particulars of that celebrated work of antiquity are not more generally known. The vast delight he had found in his researches, he assured me, were not to be described. As I considered myself uselessly employed in hearing his descriptions, my readers will make the same remark, if this essay communicates a conversation so unimportant. My friend informed me of many other, what he called, curious discoveries or attainments; and his pride seemed to consist in knowing what none of his acquaintance knew, or had any inclination to know.

The design of reading is not so much to increase the quantity of our knowledge as the propriety and utility of it.—Men of leisure, who have patience of investigation, may perhaps employ themselves in useless enquiries without producing any hurtful effects; indeed they may happen to strike upon some discovery, from which benefit will result. But where such an ardor of curiosity prevails as to push people into researches, from which no practical advantage is derived, it disqualifies them for active pursuits in life.

It should be an established rule with every person who reads, to enquire of himself, when he lays aside his book; firstly, whether he has gained any ideas at all; and secondly, whether they are just and useful. To read, and yet to acquire no ideas, is at any rate a mispence of time; but the mere loss of time is not so pernicious as to catch sentiments that are fallacious or trifling. I will close this number with an extract from a sensible author, who in touching upon this subject makes the following remarks.

"Didymus the grammarian wrote four thousand books; wherein he is much concerned to discover where Homer was born; who was Eneas's true mother; and whether Anacreon was the greater whose master or drunkard, with other fopperies, that a man would labor to forget if he knew them. Is it not an important question which of the two was first, the mallet or the song? Some people are extremely inquisitive to know how many oars Ulysses had; which was first written, the Iliads or the Odyssey; or if they were both done by the same hand. A man is never a jot more learned for this curiosity, but much more troublesome. Am I ever the more just, the more moderate, valiant, or liberal, for knowing that Curius Dentatus was the first that carried elephants in triumph? Teach me my duty to providence, to my neighbor, and to myself; to dispute with Socrates; to doubt with Carneades; to set up my rest with Epicurus; to master my appetite with the Stoics; and to renounce the world with the Cynic. What a deal of business there is, first, to make Homer a philosopher; and secondly, in what classes to range him? One will have him to be a Stoic, a friend to virtue, and an enemy to pleasure; preferring honesty even to immortality itself: Another makes him an Epicurean; one that loves his quiet, and to spend his time in good company: Some are positive in it, that he was a Peripatetic; and others, that he was a Sceptic. But it is clear, that in being all these things he was not any one of them. These divided opinions do not at all hinder us from agreeing, upon the main, that he was a wise man. Let us therefore apply ourselves to those things that made him so, and even let the rest alone."

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

Mr. WHITE. This question has occasioned a solemn debate, tho' some gentlemen have considered it so clear or so trivial as to excite their surprize, that it has again been brought before the house. I consider it as the most important question that has been yet considered; the most important that I ever had a voice in discussing or a vote in determining, except that of adopting the constitution itself in the convention of Virginia. I consider the day on which the sense of the house is to be taken on this subject as a memorable day in the annals of America. Sir, I do not consider it is simply whether the power shall be vested in the President, or in the President and Senate. The constitution has determined that point. Nor do I consider the question to be whether officers are to be held during good behaviour, or at the pleasure of those who appoint them. I suppose that on a fair and necessary construction of the constitution, that matter is settled. All arguments tending to show that one or the other mode of appointment or removal, is proper or improper, or that they ought to be dispensed by impeachment, are inapplicable to the present case. But the respectability of the characters who support these arguments entitle them to notice.

I shall proceed, Sir, to enquire, whether we are bound by the constitution, or whether we may grant to others, or assume to ourselves, powers which the constitution has not given in express terms, or by necessary implication? This I conceive to be the question.

It is not contended that the power proposed to be vested in the President is given him in express terms, or that it can be inferred from any particular clause of the constitution. It is fought for from another source, the general nature of executive power; it is on this principle the clause is advocated, or I mistake the gentleman's argument. It was said by the gentleman, who opened the debate in opposition to this amendment, that the constitution having vested the President with a general executive power, thereby all those powers were vested which were not expressly excepted, and therefore he possessed the power of removal. Sir, this is not to be learned in the American governments. Each state has an executive magistrate; but look at his powers and I believe it will not be found that he has, in any one, the right of appointing or removing officers. — In Virginia I know that all the great officers are appointed by the General Assembly. This is generally the fact in other states. If then the doctrine of the gentleman is to be supported by examples, it must be by those brought from beyond the Atlantic.—We must also there look for rules, by which the executive power, in the latitude of this principle, may be circumscribed, if indeed it can be limited. Upon this principle, Sir, the same power is given to the legislature—they will possess all powers not expressly excepted. If the President has all executive powers which are not expressly excepted, I do not know that there can be a more arbitrary government. The President, I conceive, will have all the power of a monarch; and the legislature all the powers of the most sovereign legislature. This I take to be a clear and necessary deduction from the principle on which the clause in the bill is founded. The President is limited in the appointment of ambassadors, consuls, judges, and all other officers, and in making treaties. In these he is expressly limited, and no further. Take from him these, and give him all other executive powers, as exercised in a monarchy, and see what they will be. There are also exceptions to the legislative power; such as that they shall not for a time prohibit the importation of slaves; that direct taxes shall not be laid, but in a certain mode; that taxes shall be uniform; that they shall grant no titles of nobility, &c. These are the exceptions to the legislative: Now give them all the powers of the parliament of Great-Britain, and what kind of government will you have? I can not describe it. It appears to me absolute and as extensive as any despotism.

If you go once beyond the boundaries of the constitution where can you draw a line with any precision? and with what safety to liberty can the doctrine of this clause be supported. I understand our system different in its form and spirit from all other governments in the world. It is in part national and partly federal; and though it is more extensive in its powers than most other confederated governments, yet the Congress is not to be compared to national legislatures.—To these, general powers are granted, some with and some without any particular reservations in favour of the body of the people; and to those only will the gentleman's reasonings apply.—Here is no analogy.—This is a government constituted for particular purposes only; and the powers which the people have thought proper to grant are specifically enumerated, and disposed of among the various branches. If these powers are insufficient, or if they are improperly distributed, it is not our fault, nor within our power to remedy.—The people must grant further powers—organize those already granted in a more perfect manner, or suffer from the defect. We can neither enlarge nor modify them.

Sir, this was the ground on which the friends of the government have supported it; it was a safe ground, and I venture to say that it would not have been supported on any other. In the State from which I came, if its advocates had not maintained this principle, it would never have been ratified.

Mr. WHITE then read a part of the ratification by Virginia, in support of this assertion.

Sir, said he, how far the establishment of the principle contended for may affect the completion of our Union, I will not undertake to say: I will only remark that the State of North-Carolina has expressed nearly the same sentiments as Virginia, with this difference, that Carolina would not adopt the constitution till it was satisfied of this principle, that we could not by constructive acts enlarge our powers, in order at a future day to destroy the State governments, and with them the liberties of the people.

Sir, I could likewise suggest to gentlemen the local situation of that country. It is contiguous to Kentucky, which united to Carolina, form a territory of amazing extent from the Atlantic to the banks of the Ohio. The people of this tract are in such a situation as that a single spark from this house would kindle a flame which it would be difficult if not impossible to extinguish; and excite such a dread as would render them utterly irreconcilable to our government.

Sir, this is not a vain apprehension, because the opposers of the constitution founded their arguments upon it.—They contended that you would make constructions in your favor, and assume powers not intended to be vested in you by the people. I wish, Sir, my apprehensions may be ill founded, and contradicted by the event. The measure proposed, I acknowledge, is advocated by respectable friends to the Union within these doors, and by many without. But I believe much of this arises from the clause in question conferring the power on a man, whom all the world admires, and who they know will not abuse it. But, Sir, on this occasion I forget who is President; but I do not forget that the worst of precedents are often established in the best of times. We may give the power to a particular man in office, because he will not abuse it; but we cannot take away that power from those who

may succeed him. I do not mean to infer from this, that if the constitution had vested the power in the President, it would be improper he should have it. That is a question which I will not undertake to determine. It is unnecessary; the true question before us being simply a constitutional one.

Without entering into a detail of the evils that may arise, as gentlemen have done on both sides of the House, let us consider whether the greater evil will not arise from our explaining the constitution at this time. Is there any necessity for it? If the constitution has given the power to the President, can he not exercise it without our passing an act on the subject? Will not the clause be useless? If the constitution has not given it him, shall we go beyond the limits that are set us, in order to extend it to him? I hope not. But it seems to be a doubtful point: Some think he has the power; others not. Then, Sir, I would leave the construction to himself. If it should become necessary to exercise the power, let him do it: The occasion for the exercise of it will be a better comment than any we can give.—It will better explain it to the people, and reconcile them to it more perfectly than any law from the legislature.

If the necessity of the case compel him to exercise the power, even if wrong, the people will acquiesce. I will give you an example, Sir: In Virginia, when the operations of the war required exertions of the chief magistrate, beyond the authority of the law, our late governor Nelson, whose name must be dear to every friend to liberty, was obliged to issue his warrants and impress supplies for the army. Though it was known that he exceeded his authority, his warrants were executed; his country was benefited by this resolute measure, and he himself afterwards indemnified by the legislature. Sir, I do not wish to encourage acts of this kind, but I say it would be better for the executive to assume the exercise of such a power on extraordinary occasions, than for us to delegate to him an extraordinary power to be exercised on all occasions.

Some gentlemen have supposed that the constitution has made no provision for the removal of officers; and they have called it an omitted case, and a defect. They ask, if we may not supply that defect? I answer, no. For if we can make any possible alteration, we may go on and make the constitution just what we please. But as a further answer, I say, it is not an omitted case. For the constitution having directed by whom officers shall be appointed, it does direct also by whom they shall be removed. That doctrine was so well supported by a gentleman yesterday, that I will not repeat. Sir, this must have been in the contemplation of the gentlemen who formed the constitution. Is it probable that they never thought about the manner in which an officer should be displaced? When they provided that the judges should hold their offices during good behaviour, did they not intend that all others should be held during pleasure? It is not then an omitted case.

Gentlemen have supposed that the President may suspend, and that as he has a right to make a temporary appointment, he has also a right to make a temporary removal. I think he has so, as it is correspondent with his power of appointing. But it has been said that if the concurrence of the Senate is necessary, they may refuse to concur when a removal is necessary. Sir, if you are to suppose that the government cannot be executed in its present form, there is no remedy for such a misfortune; but we are not to suppose it.—We are to presume that the Senate will do their duty.—You may go on without end in supposing. You may suppose that the President may not do what is right.—You may even suppose that this House will not do what is right. What is the consequence? Why, our constituents must bear with us till they have an opportunity for a remedy. But shall we, because the Senate may do wrong, give the President a power to act without them. We may as well, Sir, if the Senate refuse to concur in a favorite bill of this House, proceed to pass the law without them. But it has been asked, whether a person in the elevated station of President would probably abuse his trust? I presume he will not; neither do I presume the Senate will.

A gentleman, Sir, in order to get over the objections made to the clause, has recurred to that part of the constitution, which says, that Congress may by law vest the appointment of inferior officers in the President, in the courts of law, or heads of departments, and has inferred that he is to be considered himself the head and center of all those departments. This comes from one whom I always hear with pleasure, on account of his found reason and perspicuity of expression. But, Sir, I must differ with him. Who are the heads of departments? We have a secretary for foreign affairs; another of the treasury, &c. Now are not these the principal officers in those departments? If they are, they are the heads. Who are the inferior officers? The chief clerks, and all who may depend upon them. The gentlemen who formed the constitution would not, it seems, give to the President at all events the power of appointing these inferior officers to which that of removal is attached.

Sir, when I set out with saying that the constitution is the precise limit to the deliberations of this body, it may, at first view, appear inconsistent with what I have said respecting constructions. But, Sir, I say that when a thing is granted in general terms, that which in its own nature is attached to it, must go with it, without particular explanation. Without this principle, Congress could not execute the system. To make this clear, the constitution authorizes the government to appoint supreme and inferior judges. By natural and necessary construction therefore, the legislature may say, how many judges there shall be; how often and where they shall hold their terms, and what their salaries shall be. These are natural and safe constructions.—But constructions of every other kind are beyond the limits of the constitution.

Sir, I shall trouble the committee no longer. I should not perhaps have troubled them so long; but on a matter of such great importance, one which lies so heavy on my mind, and for which I am so anxiously concerned, I could not avoid expressing my sentiments fully. I am, Sir, strongly impressed with the idea, that the giving powers, which are not within the letter of the constitution, will be to the people a circumstance of alarm and terror. [Daily Ad.]

Mr. PAGE observed, that he had quite different ideas upon the clause in debate from gentlemen who supposed that it would increase the responsibility of the President.—He conceived that making the heads of departments dependent on him, would in a great measure, destroy that responsibility.—It would increase the number of his dependants who would all be interested in supporting his administration, whether according to the principles of the constitution or not—and thus he would be hedged in on every side—and what then becomes of his responsibility? The clause of the constitution which provides that officers shall be removed for high crimes and misdemeanors, plainly includes all those officers and crimes which it is contended for, to make the President the sole judge of.—The Senate is the bulwark of the sovereignty of the States.—They ought not only to have a voice in the framing laws, but ought also to see to the execution of those laws.

The retaining this clause in the bill, will excite tenfold clamours for amendments.—It will be considered as making the President an independent monarch.

Mr. SEDGWICK: It is contended, that this question is already settled by the constitution.—That the power which gives, is the only power to take away, is true, if the delegation of power sup-