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THE question, whether offices ſhould be held during the pleaſure of the preſident, ſtill under conſideration.

Mr. Hartly advocated the principle. He made ſome introductory obſervations on the neceſſity and importance of the office under conſideration, and its intimate connexion with the executive department; and maintained, that in whatever hands this department was placed, the office ought to be immediately dependent on, and controlable 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 will 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 to 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. Lawrence 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 men 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 behaviour: 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 behaviour, 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 reſting 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 inveſting 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. Lawrence 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 centre 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 control 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 counſel, 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. Lawrence, that the truſt was ſubject to abuſes; that there might be wanton changes of officers, and revolutions in all the departments, on the occaſion 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 from 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 as 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 from 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 recal 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 chooſe 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. 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 in 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 ſhould 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 favourite 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 any 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