

plaints had been made, and if he was sure that whig Governors would always hereafter be elected, he would still desire that he should be subjected to this restriction, because the Executive is always in more danger of error from the influences brought to bear on him, than from the free exercise of his own judgment.

The gentleman from Queen Anne's, [Mr. Spencer,] was opposed to his proposition, because he thinks that the excitement and prejudice in the minds of the jury, when cases of a certain class come before them may lead to an unjust verdict. He, [Mr. D.] during the time he had been on the bench, had always found juries most humane and conscientious, and he had not known of any conviction, not warranted by the law and the testimony save one. In case such conviction should take place, it was in the power of the court to grant a new trial, and, if the court thought the conviction improper, it was ever ready to do so. But he believed the jury competent to form a correct judgment from the nature of the discussions and proofs before them. But how is it with the Governor? He has not before him all the evidence which is before the Court. What information he has is generally derived from the persons convicted or his friends, who are applicants for the pardon, and who represent the case in the form most favorable to their wishes. He thought that the Governor should use greater caution and circumspection in the granting of pardons. And there are cases in which the Governor ought not to have the power to pardon. There are many complaints against the unqualified exercise of the power. Some wish it to be restricted in one case, and some in another. The Governor was generally found too ready to pardon, not indeed so much so as a Governor of Pennsylvania, who if newspaper statements be true, granted to a political favorite a pardon, for an offence subsequently to be committed.

After a few words by Mr. BRENT, of Baltimore city,

Mr. DORSEY said he had only intended to say that, under the Constitution of 1836, Baltimore as it now is, or in a few years will be, has practically obtained the exclusive power to elect the Governor.

He did not propose, he repeated, to add any new limitations to this power. On the contrary, he increased the power in the hands of the Executive, by limiting the means of restriction in conformity with the views of the gentleman from Somerset, [Mr. Crisfield.] He had no doubt that the power would be discreetly exercised. The gentleman from Baltimore said that it was not a sufficient reason for taking away the power because it had sometimes been abused, but it was a good restricting it; for appointing a controlling authority by which its abuse might be prevented.

Mr. DIRICKSON wished to enquire of the gentleman from Anne Arundel, if it was intended to take away the pardoning power from the Executive, with reference to any other class of crimes except impeachment?

Mr. DORSEY replied. Where the Legislature may think it proper.

Mr. DIRICKSON. One other question. Is it

left in the discretion of the Legislature to create new crimes?

Mr. DORSEY replied, it was not intended to confer any new power on the Legislature, but merely to enable them to exercise the power they already possessed.

Mr. BUCHANAN expressed a readiness to take from the Executive all the patronage which devolved on that department, even to the appointment of Secretary of State, and confide it directly to the people, but he never would consent to deprive the Executive of the benign prerogative of mercy.

This power of pardon, (said Mr. B.,) must rest somewhere. It exists in every government and cannot safely be dispensed with in any.

It has been said that punishment should tread upon the heels of the transgressor, and that to convict and punish the *guilty* should be the object of every government. This is true, but a no less important object of every government, should be to protect, sustain and shield the *innocent*.

If the guilty alone could suffer, then, indeed, there might be some pretext for the effort to dispense with the prerogative of pardon, but when we remember the infirmities of our nature, the imperfection of our laws, the difficulty of correctly applying them, the possibility—nay, the probability of mistake, we see at once that the innocent may be involved as well as the guilty. And it is for the protection of the innocent, that the pardoning power is chiefly designed.

I repeat, then, Mr. President, (said Mr. B.,) that the power to pardon should rest in some department of the government. It should rest in a department of high and undivided responsibility. Where can it be with more propriety reposed than with the Executive?

The duty of the Executive is to see that the laws shall be faithfully executed, and that the administration of the laws shall never become an engine of oppression.

The power to pardon in all countries, rests with the Executive. In England, it belongs to the Crown. The King by his coronation oath is bound to exercise justice in mercy. And in that country it has been said by an able writer, that there are cases in which the exercise of the pardoning power is at once beneficial to the Crown which bestows, and just to the party who receives it. It is in many cases the only mode in which a party can be protected from the consequences of an improper verdict and judgment.

In the government of the United States, (said Mr. B.,) the power to pardon is confided to the Executive *exclusively*. By the Constitution of the United States, the President shall have power to grant reprieves and pardons for offences against the United States in all cases, except in cases of impeachment. Even in cases of treason he may grant reprieves and pardons, without control or limit. This power has been exercised by the various Presidents of the United States ever since the adoption of the Constitution. No harm has been found to grow out of it—nor has any effort at any time been made to withhold it from the national Executive. The