

great object of the framers of the Constitution of the United States in confiding this power to the Executive alone, was to consolidate responsibility. Alexander Hamilton, says: "that as the sense of responsibility is always strongest in proportion as it is divided, it may be inferred that a single man would be most ready to attend to the force of those motives which might plead for a mitigation of the rigor of the law, and least apt to yield to considerations which were calculated to shelter a fit object of its vengeance."

In most of the States of the Union, the power to pardon, said Mr. B., is confided exclusively to the Executive departments. It is true that in the Constitutions of some of the States, provisions are inserted requiring the Executives to report to the Legislature; but in most of the States the power to pardon belongs exclusively to the executive departments.

Mr. President, (said Mr. B.,) the proposition here as I understand it, is to divide the responsibility of the exercise of the pardoning power, between the executive and the legislative branches of the government. It is in effect to say to the Executive, you can grant pardons and reprieves, but you are to do so only in concurrence with or in subordination to the Legislature.

Why is this? Why this distrust of the Executive? Gentlemen express the fear, (said Mr. B.,) that favoritism or prejudice may find their way into the Executive chamber. Have gentlemen never heard of favoritism finding its way into the halls of Legislation. May not the Legislature be sometimes in danger of being operated on by motives or feelings inauspicious to the just and merciful exercise of this prerogative. No, Mr. President, (said Mr. B.,) if we desire to have this power safely confided, let it be left in the hands of the Governor to be exercised on his responsibility alone.

Mr. Hamilton well says: "The reflection that the fate of a fellow creature depends on the sole fiat of the Executive, would naturally inspire scrupulousness and caution. The dread of being accused of weakness or connivance would beget equal circumspection, though of a different kind. On the other hand, as men generally derive confidence from that number, they might often encourage each other in an act of obduracy, and might be less sensible to the apprehension of censure for an injudicious or affected clemency. On these accounts one man appears to be a more eligible dispenser of the mercy of the Government, than a body of men." This, Mr. President, (said Mr. B.,) is the best doctrine, and an adherence to it, will guard us against difficulty and danger.

A word only, (said Mr. B.,) to his friend from Queen Anne's, (Mr. Spencer,) and he would have done. That gentleman and myself, have for many years borne the most intimate and friendly relation towards each other. A kinder heart does not animate a human bosom than does his. And yet, Mr. President, (said Mr. B.,) it seemed to me that to-day, an entire change came over the feelings of my friend. Of all men else I should have calculated on him to battle for the privilege of pardon, for the prerogative of mercy.

But if I understood him correctly, he was not disposed without much restriction to vest this power with the Executive. In a case of clear and undoubted guilt, [said Mr. B.] my friend, if I understood him correctly, would not leave the power of pardon in the hands of the Executive.

That might perhaps be well if it could be surely known when guilt *did actually* exist with nothing to alleviate. But how are we to be sure of this undoubted, unredeeming guilt. May there not be false accusations, perjured witnesses, misled juries, inaccurate judgments, inefficient counsel? May there not be mitigating, justifying circumstances?

Can you imagine no case, Mr. President, [said Mr. B.] in which, although the rigor of the law might demand the offender, the shield of justice should protect the victim?

You cannot with safety, [said Mr. B.,] restrict or divide this power to pardon. Under its exercise, there is no fear that the guilty will escape. And by it the innocent may be protected.

Mr. SPENCER replied that he was always pleased to hear the eloquent bursts of his friend from Baltimore county. That gentleman had known him for a long time, and he seemed to think that he, [Mr. S.,] had lost some particles of those kind qualities which he had imbibed from being so long in instructive association with him. But his friend from Baltimore county did him injustice. He, [Mr. S.,] had not deviated from his course. He had said on a former occasion that there was one class of offences in relation to which he would take away the power of the Executive to pardon. What was that class of offences? It was bribery. And his aim was to prevent pardon from being extended, not to the person who received, but to him who gave, the bribe. It was against the individual whose circumstances placed him beyond the reach of corruption, but who went about with a preconceived purpose to corrupt others, that he would arm the law with its utmost terrors. It was in reference to these persons that he would withhold the pardoning power from the Executive. If such an offence, calmly determined on, and perpetrated with entire deliberation, were brought home to a man, would his friend from Baltimore county tell him, that such a man was a fit subject for the pardoning power? No. That power should be exercised towards those who have been inconsiderately and under some sudden impulses, hurried into a violation of law. This was the position he had taken and occupied. He would stand by that part of the amendment of the gentleman from Anne Arundel, which restricts the pardoning power in all cases provided in the Constitution. But he would never give his vote for the second branch which gives the Legislature unlimited authority to restrict this power in the hands of the Executive in relation to other cases.

Mr. DORSEY, by consent, modified his amendment to meet the view of Mr. CRISFIELD, by adding the words "passed before the perpetration of the crime."

Mr. SOLLERS, (to the Chair.) Is it in order to move the previous question?