MINDES' & FARMERS' JOURNAL.

PRINTED AND PUBLISHED EVERY THURSDAY, BY THOMAS J. HOLTON CHARLOTTE, MECKLESBURG COUNTY, NORTH-CAROLINA.

WILL TEACH YOU TO PIERCE THE EDWELS OF THE EARTH AND SKING OUT FROM THE CAVERNS OF THE SOUNTAINS, METALS WHICH WILL GIVE STRENGTH TO GER HANDS AND SUBJECT ALL NATURE TO GUE USE AND PLEASURE. TR. JOHNSON

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free of postage, or they may not be attended to.

MR. GRAHAM'S SPEECH In the Resolutions to instruct Mr. Mangum.

But Sir, I will not leave the subject beus to go into an examination of the mparative merits of the Legislative and cutive departments of Government in ther iges and countries; nor would I make invidious distinction between those of own, much less, pass unrebuked an ilegal exercise of power in either. I have een endeavoring to shew that the Presiest could derive no power over the public evenue from any of the grants in the Contitution, and as no law has been produced, stowing such a power, the Resolution of e Senate is taken to be true.

But suppose that I am deceived in all s, the demonstration of its truth is by no ons necessary to the vindication of the elution of the Senate. From the very nature of Government, the Executive as ch, is but the minester to perform the dictales of the Legislature; and as the authority to command, implies the right to obece, it is at any time competent to the Le islative power, to declare whether its it has been properly executed, or whethunder a pretence of it, Executive deeds ave been done which it never authorized; this may be effected by a statute declarate. ry of what the law in, or by the expression an opinion in the shape of a Resolution. the Le is ative power consists in stnet bodies, either may make such a declaration, with or without the concurrence the other. As both are charged with the responsible duty of examining the sly of the laws, to ascertain what defects exet, and to provide suitable remedies, so are equally bound to scrutinize the adis stration of the laws, and if they be found be assunderstood or unsupplied, to deela'e their true meaning and insist on their correct administration-such declarations are not always made by the terms of enact ot merely, but these are usually ded by a preamble, reciting that " Whereis the Judiciary has decided improperly or where is some Executive officer has not ed improperly. The terms of censure imexpressed in such a preamble on e conduct of the obicer in question, may be more or less a vere. The right to use them is certainly unquestionable, and is un der no other restraints than are attached to all the rights of a Legislative body within the pale of the Constitution-their discretion and sense of propriety in their only guide. If the Senate of the United States had used the language of their Resolution by way of preamble to a statute "declaring and enacting" that the Bank of the United States dies and shall possess the right to "cust dy of the public monies so long as they are kept safely and paid out faith-fally"—they certainly would have been limits of their powers, and yet the only effect of such an act on their part would have been the same with this res tion, that is, to express the opinion of that branch of the Legislature on the illegality of the conduct of the President, that the a of 1816 ought to be executed, as it had always been heretofore.

It is likewise incident to every Legislative Assembly, as well as judicial tribunal, unless positively restrained, not merely to protect itself from interruption in the discharge of its duties, whence arises the pow er to punish for contempts, but also to resist any invasion of its rights by the other departments of Government; and when the Constitution has provided no superior to determine such matters, it must be itself the julge on the question, whether such an asion has been made. The mild and feeble mode in which only it is able to resist, ean make no difference-it may not pos sess the power to compel the encroaching department to desist, but this does not preyent it from giving the alarm and rousing the vigilance of those from whom Govern ment has derived its existence. If the oth er House of the Legislature should pass a Resolution directing the public Treasurer to pay a sum of money to an officer without it here for our concurrence, it would not only be our right, but our duty, to restrate against such a procedure. Excellency the Governor should draw a varrant on the Trensury in favor of any individual under pretence or mistake that an appropriation had been made therefor by

neral Assembly, during their session. The letter of the Constitution authorized such an appointment only when the vacancy happened "during their recess." The Legis lature which next convened, probably concurred in the Governor's construction; but with all respect for that distinguished and patriotic Magistrate, (Gov. Branen,) had

without the knowledge of the Ge-

the General Assembly or either House of it been of a different opinion, might they not have resolved that His Excellency in making such appointment had assumed power " not granted by the Constitution and laws. but in derogation of both ?" When such a declaration shall be made, must depend sole ly on the opinion of the department or bowhich believes its rights to have been violated. From the imperfection of man it may be mappropriately made, but the like result may happen in the exercise of any of its powers. The Senate of the United

States therefore being a Legislative body, clothed with as full Legislative powers as the House of Representatives, excepting in the single particular of being unable to ori-ginate revenue bills, had a perfect right whenever it was convinced of the fact, to declare that the President had invaded the province of the law-makers and under ocfour of executing his constitutional functions had assumed powers which belonged only Though inferior in number and though chosen differently from the other

House, they are with the exception before stated, equally charged with the high and solemn duties not merely of enacting laws or this vast Republic, but by perpetual vigilance of guarding from usurpation those inestimable rights, which it required ages centuries, the blood of many marty is and the horrors of imminerable wars to rescue from the hold of Executive power be youd the Atlantic. This ordinary incident of Legislative power would never have been denied to the Senate, but for the confusion

of ideas arising from its also possessing Ju-dicial and Evecutive powers; but it mus-be recollected that the two latter are in addition to, and do by no means abridge its Legislative authorities, because for one purpose, it is a Judicatory and for another an Executive council. It is not thereby the ess a branch of the Legislature, capable of framing and passing laws, of declaring their meaning, of inquiring into the acts of all those entrusted with their execution and asserting whether their intention has

the lowest, has been in accordance with law or in violation of it. The right of defend ng all its powers against infringement be ngs of course to the Senate, if the Presi dent should appoint an officer " to fill up a vacancy" which had happened during their session, and not "during the recess," or if he should exchange ratification of a treaty with a Poreign Power, without consulting them, they would be authorized and bound to remonstrate against either, as an infraction of their Executive power. stitution declaring that efficers shall be ap-

pointed and treaties cancladed by and "with

the advice and consent of the Senate," i

the House of Representatives should pre-

been fulfilled, or whother the conduct of n-

ny Executive officer, from the highest to

sume to pass judgment of removal from of fice against any individual or declare him incapable of holding office, the Senate may protest against that, as a direct encroach ment on their Judicial functions; so if the House of Representatives or President or both, as co-ordinate branches of the law enacting power, shall assail its Legislative rights, it may in like manner defend these, which are far more extensive than the two

former, comprehending every legislative authority granted to the other House, with the exception only before stated. It has been boldly promulged by the head of a Desertment, during the present year, that the Senate has no right to investigate its affairs. If this indeed be true, then is the Senate deprived of half its efficiency in the enact ment of laws; for how are they qualified to

unless they c not merely how the old are written, but how they operate practically? and the people are robbed of one half of the sentinels whom they thought they had appointed to their opinion, as to their constitutional watch and to examine the administration of rights. A still stronger precedent is affordthe laws, to commend the faithful and condemn the unfaithful ministerial servants.-Shall I be told as has been asserted before, that the Senate in such investigation may

onceive opinions and contract prejudice which may render them unfit to act as judg es, if an impeachment shall be preferred against a delinquent officer thus detected? This argument from inconvenience, if it be entitled to any notice, may be readily answered. Sir, positive stipulations, the obervance of which is enjoined by oath, are

not to be disregarded by individual ideas of tion of the nation to whom the ship belongs, propriety and convenience, and that Senator would deserve and receive the severest reproof, who excused himself for a failure o sift the conduct of any public officer, by the fear that he would thus morally disqual

ify himself for the trial of an impeachment, should one be instituted by the other House test or resolution. The Governor of this of Congress—the same species of reason of Representatives called for the papers relief to the prerogative would forever forbid the Senate to vote for,

perior Court to fill a vacancy which had oc- or the President to approve, a declaration of war, lest they should in its progress so far lese temper as to be unfitted to negotiate a Treaty of Peace. A Judge in like manner would, by the acceptance of his of-fice, surrender the power of self-defence, being unable to deal any but judicial blows. It was the intention of the framers of our Constitution, that the Senators in Congress, to whom these threefold duties are confided. should possess the highest qualifications of mind and heart; but to guard against the frailties of human nature in its best state, when they put off the Legislative to assume the judicial robe, they are required to take a new oath or affirmation, to direct their attention to the charges alleged and the evidence adduced by the other House, and as faithful triers to make their decision upon these only. It might possibly have been more proper to have given the Judicial and Executive powers of the Sonate to some other body, but it is difficult to conceive how the superaddition of these should in any manner diminish its power of defending itself and the right of free examination into the execution of the laws and naimadversion on the acts of Executive officers of any grade, which, as I have endeavored to shew. belongs to every Legislative bedy-a right which has been no where exercised more freely than in the American Congress. the year 1793, Mr. Giles of Virginia, introdeced sundry Resolutions into the House of Representatives, casting the harshest censure on Alexander Hamilton, then Secretary of the Treasury, charging him among ther things, with neglect of his office and orum to the House, (Marchall's Life

of Washington, Vol. 5.) In 1796, a Resolution passed the House of Ropresentatives calling on the President (Washington,) to lay before the House, a copy of the instructions to our Minister, to gether with the correspondence and other documents relative to Jay's treaty. The President in a written message regused to ommunicate the information desired, declaring that " to admit a right in the House of Representatives to demand and have as a matter of course, all the papers respecting a negociation with a foreign power, would to establish a dangerous precedent .-The message further proceeds, " it does not occur that the inspection of the papers asked for can be relative to any purpose un-der the cognizance of the House of Representatives, except that of an impeachment, which the resolution has not expressed."-And concludes, "a just regard to the Constrution and the duties of my office, under all the circumstances of this case, forbids a compliance with your request." upon Mr. Blount of North Carolina, in Comnittee of the Whole, theved the following Resolutions which were adopted by the

Resolved. That it being declared by the second returners, I date some declared by the second section of the second article of the Constitution, "that the President shall have tower, by and with the advice and consent of the Senate, to make treaties, provided twe-thirds of the Senators present concur," the House of Representatives do not have ent concor," the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations of any subjects submitted by the Constitution to the powers of Congress, it must depend for its execution as to such stipulations on a law or inve to be passed by Congress; and it is the constitutional right and duty of the House of Representatives in all subcases to deliberate on the expediency or inexpediency of carrying such Treaty into effect and to determine and act thereon, as in their judgment may be most conductive to the public good.

Resolved, That it is not necessary to the pro-

Resolved, That it is not necessary Resolved. That it is not necessary to the pro-priety of any application from this House to the Executive, for information desired by them and which may relate to any constitutional functions of the House, that the purposes for which such in-formation may be wanted, or to which the same may be applied, should be stated in the applica-tion. (Journal Re. of Reps. 2 vol. 400, 400, 400, 400.

These Resolutions assert in substance, that the President in withholding the information sought by the Houses on the ground that it had not been asked for, as evidence on an impenchment, had contravened their rights and violated his constitutional duty, yet they were adopted by a vote of 57 to 35. Among the former of whom are such names mer to speak their minds freely of the conas James Madison and Nathaniel Macon.— This censure of the House, however, drew forth no remonstrance from the President; he did not doubt their power to express ed by the case of Jenathan Robbins, during the administration of the elder Adams. person of this name was in prison in South Carolina, for trial on a charge of Pi-British ship of Wur on the high seas. On a requisition of the British Government, un- all occasions he preferred aliens and forder the treaty of peace, the President in-formed the Judge of that District that he sions which he either permitted or exercises considered an offence committed on board over them." a public ship of War on the high seas, to famous Petition of Right was but a decla ave been committed within the jurisdicand requested the Judge to deliver up the prisoner to the agent of Great Britain ; prorided, that the stipulated evidence of his criminality should be produced. The Judge accordingly surrendered him, and he was tried and executed by a court martial, on a charge of mutiny and murder. The House

troduced reciting all the facts, and concluding "that the decision of those questions by the President against the jurisdiction of the courts of the United States in a case where those courts had already assumed and exercised jurisdiction; and his advice and request to the judge of the district court, that the person thus charged should be delivered up; provided, only such evidence of his criminalty should be produced, as would justify his apprehension and commitment for trial, are a dangerous interference of the Executivo with judicial decisions; and that the compliance with such advice and request on the part of the Judge of the District Court of South Carolina, is a sacrifice of the Constitutional Independence of the Judicial power, and exposes the administration thereof, to suspicton and re-These resolutions were not a dopted, because a majority of the House believed the conduct of the President to be legal. But so far as I am informed, no doubt was expressed as to the right of the House to entertain them, and meny distinguished names are recorded against the motion to discharge from their further considericion. Here then is a proposition for bitter censure, not only on the President, but on a Judge of the United States, in relation to their conduct in the construction of a treaty, in defining the limits between the Executive and Judicial powers, and on a difficult question of admiralty law, retained under consideration near twenty days, and finally rejected against the wishes of Albert Gallatin, Nathaniel Macon, John Randolph and others, who have been quoted here as proper expositors of the Constitution. will only mention in addition to these the almost unanimous vote of commendation to President Washington, when retiring from office, (Journal House Reps. vol. 2, 619) and leave to candor to say, whether if they have a right to praise, they have not a right to blame.

Is it objected, that these authorities come from the House of Representatives alone? My friend from Bertie (Mr. Outlaw) has adduced a precedent of a like proceeding in the Senate, (Gov. Branch's Resolution, 1926) which is too recent to require forther comment now. The manimous con-demnation of the Post Master General is The manimous con the same body, at the last session of Congress, demonstrates to the unwilling, that their right to do so is unquestionable. But what power has the House of Representatives to pass judgment on the acts of Exec utive officers by resolution which is not possessed by the Senate. By the Constitution, the House has "the sole power of impeachment," and the Senate "the solpower to try all imprachments." The pow er to impeach, however, does not give the right to censure, in any other way than by filing a criminal information to bring an of fender to trial before the other body. It is a power to indict an offender, but not to find him guilty. Yet the Resolutions be fore stated both begin and end the accusation, both charge and convict. not, therefore, be traced to the impeaching function of the House of Representatives. but result as an incident from their Legis lative authority.
I regret sir, that I have felt obliged to

detain the ifouse thus long, in endeavoring to demonstate the right of the Senate of the United States to declare its opinion, when ever it shall judge it to be proper, of the of ficial conduct of the President or of any in terior Executive officer. I have been ac customed to consider this right of all legis lative bodies as one of the elementary prin ciples of freedom. The history of liberty for at least eight bundred years in Great Britain exhibits an almost constant struggle between the Legislative and Executive powers of Government-the Parliament in sisting on the rights of the people, and the King asserting the "original, unchecked Executive powers" of monarchy. But ever since the assemblage of the inflexible Barons at Runnymede, the right of the forduct of their Sovereign, if it has been denied by the slaves of courts, has been with the boldness which belongs to the votaries of freedom every where. As far back as the reign of Henry 3d, we are told by history, that " in full Parliament, when Henry demanded a new supply, he was o penly repreached with a breach of his word. and the frequent violation of the charter. He was asked if he did not blush to design racy and Murder committed on board a any aid from his people, whom he profess edly hated and despised, and to whom on (Hume 1 Vol. 345.) ration in indignant terms that the King had exercised perogatives unauthorised by the British Constitution and in contravention of the rights of Parliament. In the latter years of Charles 1st, the preamble of a bill to raise soldiers, denied the King's right to impress subjects into the military service. Charles came to Parliament and offered to sanction the bill without the Preamble, "by

be avoided, and the pretensions of each party be left entire." Both Houses took fire at the measure. The Lords as well as Commons passed a vote "declaring it to be a high breach of privilege for the King to take notice of any bill which was in agitation in either of the Houses, or to express his sentiments in regard to it before it was presented to him for his assent." the terms of denunciation in which the Legislative Assemblies of England were permitted to speak of their monarch before their rights were firmly established by the Revolution of 1688. Since that period, the most high prerogative Tory has never breathed a doubt of such a right in Parlia-ment to its fullest extent. But it is vehemently contended here, that one of the Houses of the American Congress, the Representatives of the whole twenty-four States, has no right to express its opinion, that the President of the United States had assumed powers which did not belong to him, but which were by the Constitution conferred on the Legislature—that their mouths must be sealed as to all his acts, except when opened for the ascription of praise, and that if, in an unguarded moment, under the impulse of the spirit of freedom, they have ventured to question the legality of a single one, the most honored sons of all the States must be humbled not merely to confess their sorrow, but to undo the deed. Sir. I appeal to every American citizen to say whether the powers of their President are more absolute than those of a British King, or whether their Congress, in either House, has not the right, to speak of the former with a freedom at least equal to that f the Lords and Commons in regard to the latter. Why, Sir, the expression contained in the Resolution of the Senate, respecting the President, is high commendation compared with the censure and animadversion, which for centuries past, the two Houses of Parliament have habitually passed on a King, who according to the theory of that Government, "ean do no wrong." egitimate powers of the President are trerendous enough.

To say nothing of the chief command of the whole military force, and the negative on acts of Legislation, the power to appoint forty thousand officers, compensated by salaries of many millions of dollars, and comprising the honors most grateful to ambition, the power to remove these again at vill, and the power to conclude, with the concurrence of the Senate, all treaties with foreign nations, are quite as great as the calous spirit of liberty will accord to any one man. Add to these the claims recently set up of controlling all incumbents while n office under penalty of removal, and thus o suspend any law, or to compel any thing to be done under the form of law : of the entire custody and control of the public treasure; and forbid the Senate to question any Executive act, and a perpecual dictatorship is established, " to take care that the Republic shall suffer no harm," to be sure ; but this also implies that it shall receive no good unless it ro please the Chief Magis-

Mr. Speaker: It may possibly be unforunate, that any collision should arise between any of the branches of the Federal Government; but, sir, if not to be encouraged, they certainly ought not to be prohibitd. The liberties of the people and the rights of the States are surely in as little danger from the disagreement as from the combination of the departments of the Government to sustain each other. At all events, the Legislature of a State, should be the last body on earth to degrade or restrain within improper bounds, the Senate of the Union. It is the great palladium of the Union. rights of the States—on that theatre only, do those sovereign communities meet as e-quals. Bring this into contempt or destroy ts independence, and you rear over our heads one consolidated Government, consisting of a single National Assembly, and an Executive, chosen alike by the whole people of the Union, and limited only by the will of the great majority. The checks balances of the system are gone, and the lines of division between the different States obliterated. Does it become us then, even if satisfied that the Resolution of the Senate was erroneous, by this barsh denunciation, to make war on the depository of rights so sacred? Against the present power and patronage of the Executive, unaided by the legislative interference, the Senate cannot stand, unless armed in a righteous Why then are we invoked as allies! ause. But is there no feeling of Carolina pride, which would shield our Senator from rebuke, even had he expressed an erroneous opinion? What is the offence with which he is here charged? That he has slept up-Oh, no: it is that he was too on his post? vigilant. Possessing something of the spirit of those men " who souffed the approach of danger in the tainted breeze," he has givalarm at a supposed assault on the Constitution, and rushed to the rescue.-Had he, though fully convinced of the approaching attack, observed a cowardly silence, or basely cried "all's well," places as he was high upon the watchtower of our Continued on fourth page.