

Mr. GEORGE MASON, animadverting on the magnitude of the powers of the President, was alarmed at the additional power of commanding the army in person. He admitted the propriety of his being commander-in-chief, so far as to give orders and have a general superintendency; but he thought it would be dangerous to let him command in person, without any restraint, as he might make a bad use of it. He was, then, clearly of opinion that the consent of a majority of both houses of Congress should be required before he could take the command in person. If at any time it should be necessary that he should take the personal command, either on account of his superior abilities or other cause, then Congress would agree to it; and all dangers would be obviated by requiring their consent. He called to gentlemen's recollection the extent of what the late commander-in-chief might have done, from his great abilities, and the strong attachment of both officers and soldiers towards him, if, instead of being disinterested, he had been an ambitious man. So disinterested and amiable a character as General Washington might never command again. The possibility of danger ought to be guarded against. Although he did not disapprove of the President's consultation with the principal executive officers, yet he objected to the want of an executive council, which he conceived to be necessary to any regular free government. There being none such, he apprehended a council would arise out of the Senate, which, for want of real responsibility, he thought dangerous. You will please, says he, to recollect that removal from office, and future disqualification to hold any [497] office, are the only consequences of conviction on impeachment. Now, I conceive that the President ought not to have the power of pardoning, because he may frequently pardon crimes which were advised by himself. It may happen, at some future day, that he will establish a monarchy, and destroy the republic. If he has the power of granting pardons before indictment, or conviction, may he not stop inquiry and prevent detection? The case of treason ought, at least, to be excepted. This is a weighty objection with me.



Mr. LEE reminded his honorable friend that it did not follow, of necessity, that the President should command in person; that he was to command as a civil officer, and might only take the command when he was a man of military talents, and the public safety required it. He thought the power of pardoning, as delineated in the Constitution, could be nowhere so well placed as in the President. It was so in the government of New York, and had been found safe and convenient.

Mr. MASON replied, that he did not mean that the President was of necessity to command, but he might if be pleased; and if he was an ambitious man, he might make a dangerous use of it.

Mr. GEORGE NICHOLAS hoped the committee would not advert to this; that the army and navy were to be raised by Congress, and not by the President. It was on the same footing with our state government; for the governor, with the council, was to embody the militia, but, when actually embodied, they were under the sole command of the governor. The instance adduced was not similar. General Washington was not a President. As to possible danger, any commander might attempt to pervert what was intended for the common defence of the community to its destruction. The President, at the end of four years, was to relinquish all his offices. But if any other person was to have the command, the time would not be limited.

Mr. MASON answered, that it did not resemble the state Constitution, because the governor did not possess such extensive powers as the President, and had no influence over the navy. The liberty of the people had been destroyed by those who were military commanders only. The danger here was greater by the junction of great civil powers to the [498] command of the army and fleet. Although Congress are to raise the army, said he, no security arises from that; for, in time of war, they must and ought to raise an army, which will be numerous, or otherwise, according to the nature of the war, and then the President is to command without any control.

Mr. MADISON, adverting to Mr. Mason's objection to the President's power of pardoning, said it would be extremely improper to vest it in the House of Representatives, and not much less so to place it in the Senate; because numerous bodies were actuated more or less by passion, and might, in the moment of vengeance, forget humanity. It was an established practice in Massachusetts for the legislature to determine in such cases. It was found, says he, that two different sessions, before each of which the question came with respect to pardoning the delinquents of the rebellion, were governed precisely by different sentiments: the one would execute with universal vengeance, and the other would extend general mercy.

There is one security in this case to which gentlemen may not have adverted: if the President be connected, in any suspicious manner, with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him; they can remove him if found guilty; they can suspend him when suspected, and the power will devolve on the Vice-President. Should he be suspected, also, he may likewise be suspended till he be impeached and removed, and the legislature may make a temporary appointment. This is a great security.