

An American: To Richard Henry Lee, Draft Found in Tench Coxe Papers

No. II

You tell us the president & Senate have all the executive & two thirds of the legislative powers in their hands. Surely. Sir, this is very wrong in the degree for as the Senate cannot originate bills to raise a revenue (a most important matter) they do not hold so great a share of legislative power as the house of representatives, nor can they subject to a public investigation the Conduct of an officer who does not please them, for they have no power of impeachment. But your assertion is still more erroneous in the Case of the president for, he possesses no right of impeachment, as he cannot originate either bills for raising a revenue nor for any other purpose, as he cannot adjourn nor prorogue the legislature unless they give him the opportunity by disagreeing among themselves, & lastly as his assent is not necessary to any bill whatever, his legislative power is much less than that of the Senate, & still more inferior to that of the house of representatives. He can only use it when the other servants of the people are divided, and then it will be little more than a power to procure a reconsideration. On this review of the Matter. I trust, you will think with me that the president & Senate will not possess two thirds of the legislative powers. An error equally [important?] is contained in your statement of the executive powers of the senate. You say they & the president hold all the executive powers of the Union. The Senate as a body & the Senators as individuals can hold or execute no office whatever. They cannot be Ambassadors Generals, Admirals, Secretaries of War. or Finance, nor perform any other National duty, but that of Senators, nor can they even nominate a person for any post or employment. In short they can execute no offices themselves, nor can they declare who shall—Their power is merely to declare who shall not. You will pardon me, Sir. for applying the term to so elegant a Scholar as you are. but really to say as you do that the power of declaring who shall not hold an office is to hold it oneself appears to me an absolute Solecism. If then I have not taken an erroneous view of the concern which the Senate have in the executive department instead of your speaking of them & the President as holding the executive powers it would have been more accurate to say the Senate holds a check on the unwise or dangerous appointments. But in this combined government of ours many of the officers of the Nation will not be with the federal executive. The state Governors, Judges Treasurers Militia officers, Sherriffs and very many other powerful officers will owe their appointment to the people, the legislatures, or executives of their respective states. How differently does this matter stand under the Constitution of England, where the king holds the sole power of Appointment.

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