

exercise, it is a necessary consequence, that he should have a right to employ agents of his own choice to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle, the power of removal, which like that of appointment, is an original executive power, is left unchecked by the Constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible. In the Government from which many of the fundamental principles of our system are derived, the Head of the Executive Department originally had power to appoint and remove at will all officers, Executive and judicial. It was to take the Judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behaviour. Nor is it conceivable, why they are placed, in our Constitution, upon a tenure different from that of all other officers appointed by the Executive, unless it be for the same purpose.

But if there were any just ground for doubt on the face of the Constitution, whether all executive officers are removable at the will of the President, it is obviated by the contemporaneous construction of the instrument, and the uniform practice under it.

The power of removal was a topic of solemn debate in the Congress of 1789, while organizing the administrative departments of the Government, and it was finally decided, that the President derived from the Constitution, the power of removal, so far as it regards that department for whose acts he is responsible. Although the debate covered the whole ground, embracing the Treasury as well as all the other Executive Departments, it arose on a motion to strike out of the bill to establish a Department of Foreign Affairs, since called the Department of State, a clause declaring the secretary "to be removable from office by the President of the United States." After that motion had been decided in the negative, it was perceived that these words did not convey the sense of the House of Representatives, in relation to the true source of the power of removal. With the avowed object of preventing any future inference, that this power was exercised by the President in virtue of a grant from Congress, when in fact that body considered it as derived from the Constitution, the words which had been the subject of debate were struck out, and in lieu thereof a clause was inserted a provision concerning the Chief Clerk of the Department, which declared that "whenever the said principle officer shall be removed from office by the President of the United States, or in any other case of vacancy, the Chief Clerk should, during such vacancy, have charge of the papers of the office. This change having been made for the express purpose of declaring the sense of Congress, that the president derived the power of removal from the Constitution, the act as it passed has always been considered as a full expression of the sense of the Legislature on this important part of the American Constitution.

Here then we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the Convention which framed the Constitution and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is "beyond the reach of Legislative authority." Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of Executive officers from the Heads of Departments to the messengers of Bureaus.

The Treasury Department, in the discussions of 1789, was considered on the same footing as the other Executive Departments, and in the act establishing it, the precise words were incorporated indicative of the sense of Congress, that the President derives his power to remove the Secretary from the Constitution, which appear in the act establishing the Department of Foreign Affairs. An assistant Secretary of the Treasury was created, and it was provided that he should take charge of the books and papers of the Department, "whenever the Secretary shall be removed from office by the President of the United States." The Secretary of the Treasury being appointed by the president, and being considered as constitutionally removable by him, it appears never to have occurred to any one in the Congress of 1789, or since until very recently, that he was other than an Executive officer, the mere instrument of the Chief Magistrate in the execution of the laws, subject, like all other heads of departments to supervision and control. No such idea as an officer of the Congress can be found in the Constitution, or appears to have suggested itself to those who organized the Government. There are officers of each House, the appointment of which is authorized by the Constitution, but all officers referred to in that instrument, as coming within the appointing power of the President, whether established thereby, or created by law, are "Officers of the United States." No joint power of appointment is given to the two houses of Congress, nor is there any other accountability to them as one body;

but as soon as an officer is created by law, of whatever name or character, the appointment of the person or persons to fill it, devolves by the Constitution upon the President with the advice and consent of the Senate, unless it be an inferior officer and the appointment be vested by the law itself "in the President alone, in the courts of law, or in the Heads of Departments."

But at the time of the organization of the Treasury Department, an incident occurred which distinctly evinces the unanimous concurrence of the first Congress in the principle that the Treasury Department is wholly executive in its character and responsibilities. A motion was made to strike out the provision of the bill making it the duty of the Secretary "to digest and report plans for the improvement and management of the revenue, and for the support of public credit," on the ground that it would give the Executive Department of the Government too much influence and power in Congress. The motion was not opposed on the ground that the Secretary was the officer of congress and responsible to that body, which would have been conclusive, if admitted, but on other grounds which conceded his executive character throughout.

The whole discussion evinces an unanimous concurrence in the principle that the Secretary of the Treasury is wholly an Executive officer, and the struggle of the minority was to restrict his power as such. From that time down to the present, the Secretary of the Treasury, the Treasurer, Register, Comptrollers, Auditors and Clerks, who fill the offices of that department, have in the practice of the Government, been considered and treated as on the same footing with corresponding grades of officers in all the other Executive Departments.

The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the Executive Department, in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate Departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole, are appointed by the President, responsible to him, and removable at his will.

Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the Treasury in any other way, except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the Constitution be changed, entrusted to the Executive Department. No officer can be created by Congress, for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties. The legislative power may undoubtedly bind him and the President, by any laws they may think proper to enact; they may prescribe in what place particular portions of the public money shall be kept, and for what reason it shall be removed, as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed—yet will the custody remain in the Executive Department of the Government. Were the Congress to assume, with or without a legislative act, the power of appointing officers, independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines, and store-houses, it is believed that such an act would be regarded by all as a palpable usurpation of Executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference in principle, whether the public property be in the form of arms, munitions of war, and supplies, or in gold and silver, or bank notes? None can be perceived—none is believed to exist. Congress cannot, therefore, take out of the hands of the Executive Department, the custody of the public property or money, without an assumption of Executive power, and a subversion of the first principles of the Constitution.

The Congress of the United States have never passed an act imperatively directing that the public moneys shall be kept in any particular place or places. From the origin of the Government to the year 1816, the statute book was wholly silent on the subject. In 1789, a Treasurer was created, subordinate to the Secretary of the Treasury, and through him to the President. He was required to give bond, safely to keep, and faithfully to disburse, the public moneys, without any direction as to the manner or places in which they should be kept. By reference to the practice of the Government, it is found, that, from its first organization, the Secretary of the Treasury, acting under the supervision of the President, designated the places in which the public moneys should be kept, and specially directed all transfers from place to place. This practice was continued, with the silent acquiescence of Congress, from 1789 down to 1816, and although many banks were selected and discharged, and although portions of the mon-

ey were first placed in the State Banks, and then in the former Bank of the United States, and, upon the dissolution of that, were again transferred to the State Banks, no legislation was thought necessary by Congress; and all the operations were originated and perfected by Executive authority. The Secretary of the Treasury, responsible to the President and with his approbation, made contracts and arrangements in relation to the whole subject-matter, which was thus entirely committed to the direction of the President, under his responsibilities to the American people, and to those who were authorized to impeach and punish him for any breach of this important trust.

(Concluded in our next.)

Communications.

FOR THE JOURNAL.

Mr. Holton:—A friend to American Freedom again claims a place in your paper.

THE DEAD RESTORED!

A short time since, I was called upon, under peculiar and heart-rending circumstances, to proclaim to the world, the melancholy and lamentable fact of having lost one of my much esteemed friends and associates, who reluctantly expired in defence of the *Hero of Orleans*!! In announcing this mournful intelligence to the citizens of my country, I was actuated from the purest motive. I paid the last tribute of respect to my friend, in a manner which becomes every person situated under similar circumstances. Yes, Mr. Editor, the sudden and unexpected departure of this giant in political matters and a *Hercules* in argumentative powers, has thrown a gloom upon the Jackson party of this place and produced a violent shock in the ranks of the few remaining adherents to *Jacksonism*, who now appear to wander about like sheep without a shepherd! There may be some anxiety and interest felt and manifested on the part of his friends to know where he was interred. I will give you this information my friends—you may probably find him under the press of "private business."

But stop one moment, I rejoice, and am happy in the reflection, that I have been made the humble instrument in bringing about resuscitation of suspended animation in my unfortunate friend. It is furthermore a source of infinite consolation to me in the firm belief, of having applied the proper remedy at such an eventful and awful crisis. Yes sir, I rejoice in the idea! So soon as the caustic was applied to his lifeless and cadaverous system and sufficient time given for the consequent effect of such an application, behold him! up he starts like a roaring lion, and bursts forth from under "private business" like a man thrown into convulsive efforts when subjected to the operation of a galvanic Battery. Yes sir, "A Citizen" now calls upon the citizens of Mecklenburg in a very pathetic and emphatic manner, to listen to him, while he reveals to them a few important and interesting facts, disclosed to him during the time he was under the press of "private business." Yes sir, he complains with great bitterness of feeling, that all the Editors west of Raleigh, have been assiduously engaged in circulating falsehoods, and slanders of the most villainous character against the present Chief Magistrate; in consequence of which, the citizens of this county have been deprived of hearing any thing in favour of Jackson; and feeling somewhat sensitive upon the subject and lamenting that the people of this patriotic county should remain uninformed upon the important questions which now agitate the whole nation, he has publicly announced to them, that he will voluntarily step forward and defend them and their rights—he will place many facts before the citizens going to prove he has adopted the correct course. Yes, Mr. Editor, this unparalleled and unexampled announcement appeared in your last paper, which for *childishness, arrogance and downright stupidity*, exceeds, in my humble opinion, any thing previously presented to the public from the pen of this self-constituted champion of reputed *Jacksonism*. The purport of this production, I presume, is best known to the untutored imagination which produced it. But it appears from the face of the communication, his object was to abuse and vilify the Editors west of Raleigh because they import truth and republican doctrines to their readers—to inform the citizens of Mecklenburg that they should not remain any longer in *Egyptian darkness* when such a brilliant luminary as "A Citizen" was ready and willing to shed light upon their understandings—to make unfounded statements in relation to the situation of some of the Washington Editors calculating thereby to mislead honest men, by exciting their prejudices; and lastly to issue low, abusive, malignant, and scurrilous language against "Liberty" who took upon himself the task of writing his *epitaph* a few weeks since as a memorial of past friendship and distinguished abilities. How far "A Citizen" has succeeded in this attempt I leave to the reader, and his "conscience." "A Citizen" may have had another object in view in presenting this extraordinary item of intelligence to the public, viz: He may have flattered himself that through the cogeny of his reasoning and soundness of argument he would succeed instantaneously in producing a complete revolution in the minds

of all who might be so fortunate as to read his production. I feel conscious he stands almost alone in this attempt to mislead free, independent and intelligent men. No man will thank "A Citizen" for his uncalled for officiousness in attempting to withdraw the affections of the people from the love of truth, strong attachments for the laws and constitution and the independence which they now enjoy.

"A Citizen" in his last communication vauntingly proclaimed to the world many of the most prominent features of the present Administration, going to show the exercise of a correct and sound judgment and superior skill in the present Executive; he was very careful not to introduce all the prominent features. Alas! Alas! now comes the melancholy information, but I am forced to give it, viz: all this information which "A Citizen" has given you comes direct from the *Globe* and it is handed over to you as *original* just from the press of "private business." The most of that part of his production touching upon the immense advantages which have grown out of the present economical Administration over that of the previous Administration, the reader may find by referring to the *Globe*. Yes sir, almost *verbatim et literatim*. I dislike to expose my friend's ignorance in such glaring colours, but circumstances call aloud for it—I am acting on the defensive. Sir, he should have confined himself to his own vivid imagination, and not resorted to the President for assistance and then publish the received intelligence as *original*. I am truly sorry my friend cannot commence a race without having to hide under the shelter of "private business" or "take a tree." Why sir, I am almost ready to conclude that he is about to undergo a similar fatality, which befel him a few days since.—I feel alarmed at the precursive symptoms and prospect ahead! I am apprehensive that his intellectual faculties and political attainments, are once more about to surrender under the press of "private business." "A Citizen" has in vain attempted to convince the world that the present Administration has not been guilty of such immense expenditures and extravagancies as the Administration of J. Q. Adams. When the present Executive ascended his *Dictatorial Throne* he and all his revolving *Satellites* around him, openly and publicly avowed their determination to make great retrenchments and reform in the then existing affairs of our government, and thereby save the people's money, and enrich the farmer and mechanic, by lessening the burden under which they groaned, viz: *Taxes*. Now let us spend a few moments in the consideration of this all important subject, one in which every man should feel some interest.

We find during the first four years of the reformed *Jubilee*, the expenditure was greater than that of Mr. Adams by nearly \$500,000—not much saved here I guess.—There are included in the above expenditures, expenses of Congress, Executive Department, contingent expenses, &c. Well, let us examine the expenditure on account of foreign relations and see how the account stands—we there find that the Administration of reform exceeds the previous Administration in salaries and outfits to ministers, &c. upwards of fifty thousand dollars:—and we cannot stop here, the contingent expenses of foreign missions upwards of \$100,000—we find under the head of total expenditures an increase for the reformed Administration about eighteen millions of dollars—of this sum ten millions have been applied to the payment of the public debt—leaving still an increase of eight millions not yet accounted for. These are plain statements and may be found where? Not in the *Globe*, my readers, but in the *Journals of Congress*.

But I am not done yet with this money saving Administration: let us turn our eyes to the removal of the *deposits* and see if this act of the President has been the means of saving thousands of dollars to the government. "A Citizen" forget this last, though not the least, important feature of the present Administration. How long since this subject was introduced into Congress? I answer, about four months. Yes, four months Congress has been discussing this question. What has this act cost our government? upwards of four hundred thousand dollars, and not settled yet. Yes, this immense sum wasted by this economical Act. *Citizens reflect!* Here is reform and retrenchment with a vengeance. The people can plainly see how much money has been wasted by the present Administration. Ah! my dear friend you should remember that all the statements contained in the *official organ* are not true, they are calculated to mislead you, and consequently you should not attempt to lead others while you are kept blindfolded by such men, if you do, the consequences arising out of the blind leading the blind, will inevitably occur.

"A Citizen" declares most positively and unequivocally that in looking over the last piece signed "Liberty," he can find no argument, no proof, nothing but big words, &c. and reminds him very much of an antiquated fable of the *Ox and Frog*. Now whether he plays the part of the *Ox* or *Frog* we are left totally in the dark; but judging from the acknowledged intolerable stupidity of the former, I, in order to give him justice in the classification of his species, would place him among that part of created animals. So say you all.

Again: "A Citizen" says that "Liberty" ought to remember that the Journal may reach the Capitol and all his rignarole and balderdash may be read by members of Congress. I admit my productions may reach Maine—and where will yours be! Now sir, I must confess according to my construction of the English language you have either complimented my production or cast a slur upon members of Congress. Members of Congress read nonsense!! Why, sir, you are mistaken in your object. I have a more favourable opinion of members of Congress and consequently feel somewhat comfortable under the reflection that my balderdash attracts their attention. I feel much mortified that the President has not some person more competent to advocate his stinking cause in Mecklenburg County—his friends at a distance will soon exclaim if we have no better help than this, we must soon retire to the shades of "private business."—Oh! Tempora! Oh! Mores! as translated by this pompous and self-conceited member of the legal profession, is well calculated to fill the description of himself—when he rises before a jury with a mantle of self importance thrown around him. Yes sir: When this gentleman presents himself before a legal tribunal, you find him swelling up, until he becomes completely inflated, and if he has no opportunity of making a rhetorical display of his legal qualifications, you will find him quarreling with the Court Officers because they fail to keep profound silence, at the same time, keeping up an incessant noise and confusion himself,—he must talk—he will talk—and often required to keep silence. When entitled to the floor, he seizes the opportunity with avidity, much to the annoyance and dissatisfaction of all who have business to transact; he is long winded indeed! and if he does not prove himself to be a bag of wind, (and a large one too) when he rises to address a Court and Jury, I will willingly forfeit my judgment. I regret exceedingly, that the gentleman was so peculiarly unfortunate in his translation, as to give a perfect and satisfactory description of his own character. This is sufficient upon this point.

If being opposed to *Monarchy, Umpire, Despotism, &c.* as connected with the present Administration,—if being a firm and constant supporter of the laws upon which I live—if being in favour of the U. S. Bank and American liberty,—entirely to the appellation of *Nullifier*, I am a full blooded one and glory in the name. I am clear for having a due respect paid to the constitution and not permit it to be trampled under foot by Executive power—I am always prepared to repel invasions—I will even be ready to dethrone any man, who openly and perseveringly attempts to invade and destroy the sacred instrument by which we are kept together.—I always will raise my voice against any political *Demagogue* who wishes to usurp powers not granted in the Constitution;—I will always oppose the reins of government being in the hands of any Executive in defiance of the constitution;—I will ever stand with indignation upon any President who regards neither the law of God nor man—if this *Federalism* I must say I rejoice in the name and Oh! that we had more of this LIBERTY.

A letter from Judge M'Lean, in relation to the next Presidency, has recently been published. It is dated at Washington the 27th of March, and is in reply to a letter addressed to him by the editor of an Ohio paper, informing him of a report, extensively circulated, that he had expressed a determination not to be a candidate for the presidency in opposition to Mr. Van Buren, and requesting him to say whether he intends to become a candidate for the presidency regardless of the decision of a national convention. The Judge states that the report mentioned is without the shadow of foundation. Whether he shall become a candidate or not, will depend entirely on the voluntary action of the people. He is opposed to any national caucus or convention for the purpose of nominating a candidate for the Presidency, as it is contrary to the usage of the democratic party, and has a direct tendency to place the political power of the country in the hands of a few individuals. His course, therefore, will in no degree be influenced by the contemplated national convention. In order to keep the election of President out of the House of Representatives, he has always been in favour of altering the constitution as to send the election a second time to the people, if there should be a failure to elect on the first attempt.—*Baltimore Gazette*.

Good.—We heard yesterday of a couple of singular marriages which took place not long since in Camden.

A gentleman not arrived at his grand climacteric, but old enough to have a son grown up to man's estate, fell in love with a beautiful young girl of 17, to whom he told a soft and tender tale, which moved her to become his bride. His son resented at first an action so incongruous, and made the matter till he was just among his companions.—shortly afterwards, however, he learnt the fact that his stepmother was the only daughter of a handsome rich widow, when he immediately paid them a visit. Strange to tell, he was captivated with his step mother's mother, (a pretty looking woman of thirty-two.) She consented to the match, and they were married a week afterwards.—*Sig.*