

portion of the community from aggrandizing or enriching itself at the expense of the other, and to restrict the whole to the sphere intended by the framers of the Constitution. Has it effected these objects? Has it prevented oppression and usurpation on the part of the Government? Has it accomplished the objects for which the Government was ordained, as enumerated in the preamble of the Constitution?—Much, very much, certainly has been done, but not all. Many instances might be enumerated, in the history of the Government, of the violation of the Constitution—of the assumption of powers not delegated to it—of the perversion of those delegated to uses never intended—and of their being wielded by the dominant interest, for the time, for its aggrandizement, at the expense of the rest of the community—instances that may be found in every period of its existence, from the earliest to the latest, beginning with the Bank and bank connection at its outset, and ending with the Distribution act, at its late extraordinary session. How is this to be accounted for? What is the cause?

The explanation and cause will be found in the fact, that, as fully as the sense of the people is taken in the action of the Government, it is not taken fully enough. For, respect, there are but two organs through which the voice of the community acts directly on the Government, and which, taken separately, or in combination, constitute the elements of which it is composed, the one is the majority of the States regarded in their corporate character as bodies politic, which in its simple form constitutes the Senate; and the other is the majority of the people of the States, of which, in its simple form, the House of Representatives is composed. These combined, in the proportions already stated, constitute the Executive Department, and that department and the Senate appoint the judges, who constitute the Judiciary. But it is only in their simple form in the Senate and the other House, that they have a steady and habitual control over the legislative acts of the Government. The veto of the Executive is rarely interposed; not more than about twenty times during the period of more than fifty years that the Government has existed.—Their effects have been beneficially felt, but only casually, at long intervals, and without steady and habitual influence over the action of the Government. The same remarks are substantially applicable to what, for the sake of brevity, may be called the veto of the Judiciary; the right of negating a law for the want of constitutionality, when it comes in question, in a case before the courts.

The Legislature, then, of the Union, being under no other habitual and steady control but these two majorities, acting through this and the other House, is, in fact, placed substantially under the control of the portion of the community, which the united majorities of the two Houses represent for the time, and which may consist of but fourteen States, with a federal population of less than ten millions, against a little more than six, as has been already explained. But as large as is the former, and as small as is the latter, the one is not large enough, in proportion, to prevent it from plundering, under the forms of law, and the other small enough from being plundered; and hence the many instances of violation of the Constitution, of usurpation, of powers perverted, and wielded for selfish purposes which the history of the Government affords. They furnish proof conclusive that the principle of plunder, so deeply implanted in all Governments, has not been eradicated in ours by all the precautions taken by its framers against it.

But in estimating the number of the constituency necessary to control the majority in the two Houses of Congress at something less than ten millions, I have estimated it altogether too high, regarding the practical operation of the Government. To form a correct conception of its practical operation in this respect, another element, which has in practice an important influence, must be taken into the estimate, and which I shall next proceed to explain.

Of the two majorities, which, acting either separately or in combination, control the Government, the numerical majority is by far the most influential. It has the exclusive control in the House of Representatives, and preponderates more than five to one in the choice of the President, assuming that the ratio of representation will be fixed at sixty-eight thousand, under the late census. It also greatly preponderates in appointment of the judges, the right of nominating having much greater influence in making appointments than that of advising and consenting. From these facts, it must be apparent that the leaning of the President will be to that element of power to which he mainly owes his elevation, and on which he must principally rely, to secure his re-election, or maintain the ascendancy of the party and system of his policy, the head of which he usually is.—This leaning of his, must have a powerful effect on the inclination and tendency of the whole Government. In his hands are placed, substantially, all the honors and emoluments of the Government, and these, when greatly increased, as they are and ever must be when the powers of the Government are greatly stretched and increased, must give the President a corresponding influence over, not only the members of both Houses, but also public opinion, and through that, a still more powerful indirect influence over them; and thus they may be brought to sustain or oppose, through his influence, measures which otherwise they would have opposed or sustained, and the whole Government be made to lean in the same direction with the Executive.

From these causes the Government, in all of its departments, gravitates steadily

towards the numerical majority, and has been moving slowly towards it from the beginning; sometimes, indeed, retarded, or even stopped or thrown back, but, taking any considerable period of time, always advancing towards it. That it begins to make near approach to that fatal point, ample proof may be found in the oft-repeated declaration of the mover of this resolution, and of many of his supporters at the extraordinary session, that the late Presidential election decided all the great measures which he so ardently pressed through the Senate. Yes, even here in this chamber, in the Senate, which is composed of the opposing element, and on which the only effectual resistance to this fatal tendency exists that is to be found in the Government, we are told that the popular will as expressed in the Presidential election is to decide not only the election, but every measure which may be agitated in the canvass in order to influence the result.—When what was thus boldly insisted on comes to be an established principle of action, the end will be near.

As the Government approaches nearer and nearer to the one absolute and single power, the will of the greater number, its action will become more and more disturbed and irregular; faction, corruption, and otium will daily decay, and affection and reverence for the Government grow weaker and weaker, until the final shock occurs, when the system will rush to ruin; and the sword take the place of law and Constitution.

Let me not be misunderstood. I object not to that structure of the Government which makes the numerical majority the predominant element; it is, perhaps, necessary it should be so in all popular constitutional Government like ours, which excludes classes. It is necessarily the exponent of the strongest interest, or combination of interests, in the community; and it would seem to be necessary to give it the preponderance, in order to infuse into the Government the necessary energy to accomplish the ends for which it was instituted. The great question is, (how is due preponderance to be given to it, without subjecting the whole, in time, to its unlimited sway?) which brings up the question, Is there anywhere, in our complex system of Government, a guard, check, or contrivance, sufficiently strong to arrest so fearful a tendency of the Government? Or, to express it in more direct and intelligible language, Is there anywhere in the system a more full and perfect expression of the voice of the people of the States calculated to counteract this tendency to the concentration of all the powers of the Government in the will of the numerical majority, resulting from the partial and imperfect expression of their voice through its organs?

Yes, fortunately, doubly fortunately, there is, not only a more full and perfect, but a full and perfect expression to be found in the Constitution, acknowledged by all to be the fundamental and supreme law of the land. It is full and perfect, because it is the expression of the voice of each State, adopted by the separate assent of each, by itself, and for itself, and is the voice of all by being that of each component part, united and blended into one harmonious whole. But it is not only full and perfect, but as just as it is full and perfect; for combining the sense of each, and therefore all, there is nothing left on which injustice, or oppression, or usurpation can operate. And, finally, it is as supreme as it is just, because, comprehending the will of all, by uniting that of each of the parts, there is nothing within or above to control it. It is indeed, the *vox populi vox Dei*; the creating voice that called the system into existence, and of which the Government itself is but a creature, clothed with delegated powers to execute its high behests.

We are thus brought to a question of the deepest import, and on which the fate of the system depends; How can this full, perfect, just, and supreme voice of the people, embodied in the Constitution, be brought to bear habitually and steadily in counteracting the fatal tendency of the Government to the absolute and despotic control of the numerical majority? Or, if I may be permitted to use so bold an expression, how is this, the deity of our political system, to be successfully invoked, to interpose its all powerful creating voice to save from perdition the creature of its will and the work of its hand? If it cannot be done, ours, like all free Governments preceding it, must go the way of all flesh; but if it can be, its duration may be from generation to generation, to the latest posterity. To this all important question, I will not attempt a reply at this time. It would lead me far beyond the limits properly belonging to this discussion. I descend from the digression nearer to the subject immediately at issue, in order to reply to an objection to the veto power, taken by the Senator from Virginia, on this side the chamber, [Mr. Archer.]

He resists his support of this resolution on the ground that the object intended to be effected by the veto has failed, that the framers of the Constitution regard the legislative department of the Government, as the one most to be dreaded, and that their motive for vesting the Executive with the veto, was to check its encroachments on the other departments; but that the Executive, and not the Legislature, had proved to be the most dangerous, and that the veto had become either useless or mischievous by being converted into a sword to attack, instead of a shield to defend as was originally intended.

I make no issue with the Senator, as to the correctness of the statement, I assume the facts to be as he supposes; not because I agree with him, but simply with the view of making my reply more brief.

Assuming, then, that the Executive Department has proved to be the more formidable, and that it requires to be checked, rather than to have the power of checking others, the first inquiry on that assumption, should be into the cause of its increase of power, in order to ascertain the seat and the nature of the danger; and the next, whether the means proposed—that of divesting it of the veto, or modifying it as proposed—would guard against the danger apprehended.

I begin with the first, and in entering on it, assert with confidence, that if the Executive has become formidable to the liberty or safety of the country or other departments of the Government, the cause is not in the Constitution, but in the acts and omissions of Congress itself.

According to my conception, the powers vested in the President by the Constitution, are few and effectually guarded, and are not of themselves at all formidable. In order to have a just conception of the extent of his powers, it must be borne in mind that there are but two classes of powers known to the Constitution; and they are powers that are expressly granted, and those that are necessary to carry the granted powers into execution. Now, by a positive provision of the Constitution, all powers necessary to the execution of the granted powers, are expressly delegated to Congress, he they powers granted to the Legislative, Executive or Judicial department, and can only be exercised by the authority of Congress, and in the manner prescribed by law. This provision may be found in what is called the residuary clause, which declares that Congress shall have power "to make all laws which shall be necessary and proper to carry into execution the foregoing powers," (those granted to Congress,) "and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof." A more comprehensive provision cannot be imagined. It carries with it all powers necessary and proper to the execution of the granted powers, he they lodged where they may, and vests the whole, in terms not less explicit, in Congress; and here let me add, in passing, that the provision is as wise as it is comprehensive. It deposits the right of deciding what powers are necessary for the execution of the granted powers, where, and where only it can be lodged with safety, in the hands of the law-making power, and forbids any department or officer of the Government from exercising any power not expressly authorized by the Constitution or the laws, thus making ours emphatically a Government of law and Constitution.

Having now shown that the President is restricted by the Constitution to powers expressly granted to him, and that if any of his granted powers be such that they require other powers to execute them, he cannot exercise them without the authority of Congress, I shall now show that there is not one power vested in him that is in any way dangerous, unless made so by the acts or permission of Congress. I shall take them in the order they stand in the Constitution.

He is, in the first place, made Commander-in-chief of the army and navy of the United States, and the militia, when called into actual service. Large and extensive military and naval establishments and numerous corps of militia, called into service, would no doubt increase very dangerously the power and patronage of the President; but neither can take place but by the action of Congress: Not a soldier can be enlisted, a ship of war built, nor a militiaman called into service, without its authority; and very fortunately our situation is such, that there is no necessity, and, probably, will be none, why his power and patronage should be dangerously increased by either of those means.

He is next vested with the power to make treaties and to appoint officers, with the advice and consent of the Senate; and here again his power can only be made dangerous by the action of one or both Houses of Congress. In the formation of treaties two-thirds of the Senate must concur; and it is difficult to conceive of a treaty that could materially enlarge his powers, that would not require an act of Congress to carry it into effect. The appointed power may, indeed, dangerously increase his patronage, if officers be uselessly multiplied and too highly paid; but if such should be the case, the fault would be in Congress, by whose authority exclusively they can be created or their compensation regulated.

But much is said in this connection, of the power of removal, justly accompanied by severe condemnation of the many and abusive instances of the use of the power, and the dangerous influence it gives the President, in all of which I fully concur. It is, indeed, a corrupting and dangerous power, when officers are greatly multiplied, and highly paid, and when it is perverted from its legitimate object, to the advancement of personal or party purposes. But I find no such power in the list of powers granted to the Executive, which is proof conclusive that it belongs to the class necessary and proper to execute some other power, if it exists at all, which none can doubt; and, for reasons already assigned, cannot be exercised without authority of law. If, then, it has been abused, it must be because Congress has not done its duty in permitting it to be exercised by the President without the sanction of law authorizing its exercise, and guarding against the abuses to which it is so liable.

The residue of the list are rather duties than rights; that of recommending to Congress such measures as he may deem expedient; of convening both Houses on extraordinary occasions; of adjourning them

when they cannot agree on the time; of receiving ambassadors and other ministers; of taking care that the laws be faithfully executed, and commissioning the officers of the United States. Of all these, there is but one which claims particular notice, in connection with the point immediately under consideration; and that is his power as the administrator of the laws. But whatever power he may have in that capacity depends on the action of Congress. If Congress should limit its legislation to the few great subjects confided to it; so frame its laws as to leave as little as possible to discretion, and to take care to see that they are daily and faithfully executed, the administrative powers of the President would be proportionally limited, and divested of all danger. But if, on the contrary, it should extend its legislation in every direction; draw within its action sundry offices, and increase the revenue and expenditures proportionally, and, at the same time, frame its laws vaguely and loosely, and withdraw, in a great measure, its supervising care over their execution, his power would indeed become truly formidable and alarming. Now I appeal to the Senator and his friend, the author of this resolution, whether the growth of Executive power has not been the result of such a course on the part of Congress. I ask them whether his power has not in fact increased, or decreased just in proportion to the increase and decrease of the system of legislation, such as has been described? What was the period of its maximum increase, but the very period which they have so frequently and loudly denounced as the one most distinguished for the prevalence of Executive power and usurpation? Much of that power certainly depended on the remarkable man, then at the head of that Department, but such—far more, on the system of legislation, which the author of this resolution had built up with so much zeal and labor, and which carried the powers of the Government to a point beyond that to which it had ever before attained, drawing many and important powers into its vortex, of which the framers of the Constitution never dreamed. And here let me say to both of the Senators, and the party of which they are prominent members, that they labor in vain to bring down Executive power, while they support the system they so zealously advocate. The power they complain of is but its necessary fruit. Be assured that as certain as Congress transcends its assigned limits and usurps powers never conferred, or stretches those conferred beyond the proper limits, so surely will the fruits of its usurpation pass into the hands of the Executive. In seeking to become master, it but makes a master in the person of the President. It is only by confining itself to its allotted sphere, and a discreet use of its acknowledged powers, that it can retain that ascendancy in the Government which the Constitution intended to confer on it.

Having now pointed out the cause of the great increase of the Executive power on which the Senator rested his objection to the veto power, and having satisfactorily shown, as I trust I have, that, if it has proved dangerous in fact, the fault is not in the Constitution, but in Congress, I would next ask him, in what possible way could the divesting the President of his veto, or modifying it as he proposes, limit his power? Is it not clear, that so far from the veto being the cause of the increase of this power, it would act as a limitation to it if it had been more freely and frequently used? If the President had vetoed the original Bank—the connection with the banking system—the tariffs of '24 and '28, and the numerous acts appropriating money for roads, canals, harbors, and a long list of other measures not less unconstitutional, would his power have been half as great as it now is? He has grown great and powerful, not because he used his veto, but because he abstained from using it. In fact, it is difficult to imagine a case in which its application can tend to enlarge his power, except it be the case of an act intended to repeal a law calculated to increase his power, or to restore the authority of one which, by an arbitrary construction of his power, he has set aside.

Now let me add, in conclusion, that this is a question, in its bearings, of vital importance to that beautiful and sublime system of Government, which our patriotic ancestors established, not so much by their wisdom, as wise and experienced as they were, as by the guidance of a kind Providence, who, in his divine dispensation, so disposed events as to lead to the establishment of a system of government wiser than those who framed it. The veto, of itself, as important as it is, sinks into nothing compared to the principle involved. It is but one, and that by no means the most considerable, of those many wise devices which I have attempted to explain, and which were intended to strengthen the popular basis of our Government, and resist its tendency to fall under the control of the dominant interest, acting through the mere numerical majority. The introduction of this resolution may be regarded as one of the many symptoms of that fatal tendency, and of which we had such fearful indications in the bold attempt at the late extraordinary session, of forcing thro' a whole system of measures of the most threatening and alarming character, in the space of a few weeks, on the ground that they were all decided in the election of the late President; thus attempting to substitute the will of a majority of the people, in the choice of a Chief Magistrate, as the legislative authority of the Union, in lieu of the beautiful and profound system established by the Constitution.



THE REPUBLICAN.

LINCOLN, N. C.
WEDNESDAY, MARCH 23, 1843

DEMOCRATIC REPUBLICAN NOMINATION.
For Governor,
LOUIS D. HENRY,
OF CUMBERLAND COUNTY.

WE are authorized and requested to announce Col. T. N. Herndon as a candidate for Brigadier General of the 10th Brigade of North Carolina Militia, to supply the vacancy occasioned by the resignation of Gen. Seagle.

WE are authorized and requested to announce Col. J. G. BYNUM, a candidate for the office of Brigadier General of the 10th Brigade of North Carolina Militia, to supply the vacancy occasioned by the resignation of Gen. Seagle.

WE are authorized and requested to announce Col. J. J. BARRINGER, of Lincoln County, as a candidate for Brigadier General of the 10th Brigade of North Carolina Militia, to supply the vacancy occasioned by the resignation of Gen. Seagle.

LINCOLN FIRE COMPANY.

We are requested to remind the Members of the Lincoln Fire Company, that the next regular meeting of their body will take place on the 1st Saturday in April next. It is hoped, that no one will neglect to attend.

Lincolnton Female Academy.

The examination of the pupils belonging to this Institution, took place, on Thursday last, in the presence of a numerous, respectable, and, we may add, highly gratified audience. The exercises were interesting, and reflected much credit both on the young ladies and misses, and the accomplished and indefatigable instructress at their head.

The exercises of the School will be resumed on Monday the 4th of April next.

MR. HENRY IN THE WEST.

We learn from the last Western Carolinian, that Mr. Henry, the Republican candidate for Governor, will be in Salisbury this week, and will address the citizens of Rowan at that place to-morrow, (Thursday.) He will also be at the Democratic meeting in Lexington, Davidson county, on Saturday next. After which, our Whig friends in the mountains may look out for him. We don't know, that he will take that direction next, but think it probable; they had better, therefore, have all their big guns loaded, ready for him.

MR. CALHOUN'S SPEECH.

We publish to-day (says the Globe,) Mr. Calhoun's Speech on the Veto power in the Constitution. This point, raised by Mr. Clay's resolutions, has opened up to discussion the whole structure of our Constitution, and the great principles of free government, on which our federative system is based. We ask the attention of our readers to the profound and philosophical analysis of both, which this speech presents. Some of us may not yet be too old or too wise to learn something from such a teacher; but of the young men of our country, especially, into whose hands our Government must soon fall for administration, as older men leave the stage of public life, we would ask a careful and repeated study of this great speech. Let them not be satisfied with one perusal. Let them put it aside, and again and again recur to it, and reflect on its great themes—free government to man, and (in the language of Mr. Calhoun) "our wonderful and sublime Constitution."

The Editor of the Rutherfordton Intelligencer promises to publish Mr. Henry's Letter when he has nothing better (in his opinion, of course,) with which to entertain his readers.

How very liberal! And we will renounce Democracy when convinced that it is wrong.

NICE FEELINGS.

Several months since, we requested the Editor of the Rutherfordton Intelligencer to publish the document giving the items of the funeral expenses of Gen. Harrison. He refused, and gave his reasons for so doing, in an article of some length. We copied his article in our paper, and showed conclusively, we thought, that the ground upon which he had placed his refusal was untenable. He then dropped the subject

like a hot potato, and we could get nothing more from him until last week, when all unrecalled for, he comes out and gives a reason for his former silence, and especially for not copying our article. He says, "As the gentleman had copied our article in his, we felt a strong desire to reciprocate, by inserting his reply in our columns, and we were only prevented by the employment of language by him which from our feelings, [oh dear, how nice!] we could not imitate in answering his reply; for we never have been in favor of the practice that prevails between the parties in this country of using hard names in ridicule of each other, instead of arguments, such as 'Whiggery,' 'Loco Foco's' 'Federal,' 'Monarchist!' &c. &c."

Now, it is unfortunate for "the gentleman's" reason, that the article which he neglected to copy was one of the most respectful, courteous and conciliatory ones that we ever penned. In it, we used no "language" that men of the nicest "feeling" could not "imitate;" and so far from applying to him any of the horrid epithets which he has named, we called him in every instance in which we had occasion to speak of him, our friend! In fact, neither of these epithets is any where to be met with in the article, applied to him or any one else. But what makes the objection to our article still more unfortunate, the very paper in which it is urged, contains a communication grossly abusive of President Tyler, in which the word *Loco Foco* occurs some three or four times.—Now, if "the gentleman's" nice feelings forbade the insertion of our article on account of the language employed, how could he admit this communication? We are inclined to think, that this excuse is an after-thought, which has been hastily put forth without a recurrence to the facts.—Better would it have been for the Editor, if he had remained silent, or come out with the truth; we believe that he did not copy our article because he could not answer it.

AFRAID OF THE LIGHT!

In our paper of week before last, we made a respectful request of our two contemporaries in the Mountain district, the *Ashville Messenger* and *Rutherfordton Intelligencer*, to publish L. D. Henry's Letter, promising at the same time, if they would comply, to insert any Whig document of the same length, which they might designate. From the first named of these papers, we have as yet received no answer; but, much to our surprise, the latter refused to accede to our fair proposition, and for reasons so weak and unsatisfactory as to leave us grounds to suspect, that he is afraid—afraid of the effect which that manly, eloquent and truth-telling document may produce in that region, which it is the interest of his party to keep still in the dark. The right of the Editor to refuse it a place, is unquestionable; but he must place that refusal on higher and better grounds than he has done, before he can satisfy us or (if we understand them aright,) his readers, of its propriety. Mr. Henry appears before the people of North Carolina as a candidate for the highest office within their gift, and he boldly sets forth his principles and opinions, which he is not only willing but anxious should be seen by every voter in the State; and as in the large and populous region embraced in the 12th Congressional district, he has no organ through which they can be made known, we thought we could ask it of the *liberality*, if not of the *justice*, of the two papers published there, to give him a hearing. We are disappointed, so far as the *Rutherfordton Intelligencer* is concerned; the Editor of that paper refuses to publish the Letter, because, we think, he is afraid the effect of it may be disastrous to Whiggery!

P. S. Since the above was put in type, we have received the *Highland Messenger*. The Editors of that paper meet us more like men. We give below our request and their answer.

A Fair Proposal. Will the *Rutherfordton Intelligencer* and the *Highland Messenger* publish Mr. Henry's letter? If they will, we will insert any Whig document of equal length, which they may designate. Say, gentlemen, is it a bargain?—*Lincoln Republican*.

We cannot speak for the *Intelligencer*, but we will certainly accommodate you—provided you will publish the same amount of matter, such as we shall designate, whether it be in one or many articles. We have no "whig document" on hand of equal length with Mr. Henry's letter, but if you will just publish as many columns of matter we shall mark and send you in the *Messenger*, as the latter makes in your paper, you may consider it a "bargain," and one too we very cheerfully take. If you accept our terms, please send us a paper containing the letter, as we have given away all the copies we had.

Highland Messenger.
We cheerfully accept the terms of the