

THE WESTERN CAROLINIAN.

PUBLISHED EVERY SATURDAY:—ASHBEL SMITH AND JOSEPH W. HAMPTON PROPRIETORS.—[Vol. 15, No. 47—Whole No. 777.]

AT TWO DOLLARS A YEAR,
If Paid in Advance.

SALISBURY, NORTH CAROLINA, APRIL 25, 1835.

Or Two Dollars and Fifty Cents,
After the expiration of 3 months.

The Western Carolinian.

BY ASHBEL SMITH & JOSEPH W. HAMPTON

TERMS OF PUBLICATION.

1. The Western Carolinian is published every Saturday, at Two Dollars per annum if paid in advance, or Two Dollars and Fifty Cents if not paid before the expiration of three months.

2. No paper will be discontinued until all arrearages are paid, unless at the discretion of the Editor.

3. Subscriptions will not be received for a less time than one year; and a failure to notify the Editor of a wish to discontinue, at the end of a year, will be considered as a new engagement.

4. Any person who will procure six subscribers to the Carolinian, and take the trouble to collect and transmit their subscription-money to the Editor, shall have a paper gratis during their continuance.

5. Persons residing in the Editor, may transmit to him through the Mail, at his risk—provided they get the acknowledgment of any respectable person to prove that such remittance was regularly made.

TERMS OF ADVERTISING.

1. Advertisements will be conspicuously and correctly inserted, at 50 cents per square for the first insertion, and 33 cents for each continuance; but where an advertisement is ordered to go in only twice, 50 cts. will be charged for each insertion. If ordered for one insertion only, 50 cts. will in all cases be charged.

2. Persons who desire to engage by the year, will be accommodated by a reasonable deduction from the above charges for transient custom.

TO CORRESPONDENTS.

1. To insure prompt attention to Letters addressed to the Editor, the postage should in all cases be paid.

EXECUTIVE PATRONAGE.

REMARKS OF MR. CALHOUN.

On the Bill to repeal the Four Years Law, and to regulate the power of removal.

Mr. CALHOUN said, the question involved in the third section of the bill, whether the power to dismiss an officer of the government can be controlled and regulated by Congress, or is under the exclusive and unlimited control of the President, is no ordinary question, which may be decided either way, without materially affecting the character and practical operation of the government. It is, on the contrary, a great and fundamental question; on the decision of which will materially depend the fact, whether this government shall prove to be what those who framed it supposed it was, a free, popular, and Republican Government, or a monarchy in disguise.

This important question, said Mr. C., has been very fully and ably discussed by those who have preceded me on the side I intend to advocate. It is not my intention to repeat their arguments, nor to enforce them by additional illustration. I propose to confine myself to a single point of view, but that point I hold to be decisive of the question.

If the power to dismiss is possessed by the Executive, he must hold it in one of two modes; either by an express grant of the power by the Constitution, or as a power necessary and proper to execute some power expressly granted by that instrument. All the powers under the constitution may be classed under one or the other of these heads; there is no intermediate class. The first question then is, has the President the power in question by an express grant in the constitution? He who affirms that he has, is bound to show it. That instrument is in the hands of every member; the portion containing the delegation of power to the President is short. It is comprised in a few sentences:—I ask the Senators to open the constitution, to examine it, and to find, if they can, any authority given to the President to dismiss a public officer. None such can be found; the constitution has been carefully examined, and no one pretends to have found such a grant. Well then, as there is none such, if it exists at all, it must exist as a power necessary and proper to execute some granted power; but if it exists in that character, it belongs to Congress and not to the Executive. I venture not this assertion hastily; I speak on the authority of the constitution itself—the express and unequivocal authority which cannot be denied or contradicted. Hear what that sacred instrument says:—“Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (those granted to Congress itself,) and all other powers vested by this constitution in the government of the United States, or in any department or office thereof.” Mark the fullness of the expression. Congress shall have the power to make all laws, not only to carry into effect the powers expressly delegated to itself, but those delegated to the government, or any department or office thereof; and of course comprehends the power to pass laws necessary and proper to carry into effect the powers expressly granted to the Executive Department. It follows of course, that whatever express grant of power to the Executive, the power of dismissal may be supposed to attach; whether to that of seeing the law faithfully executed, or to the still more comprehensive grant, as contended for by some, vesting Executive powers in the President, the mere fact that it is a power appurtenant to another power, and necessary to carry it into effect, transfers it, by the provisions of the constitution, from the Executive to Congress, and places it under the control of Congress, to be regulated in the manner which it may judge best. If there be truth in reasoning on political subjects, the conclusion to which I have arrived cannot be resisted. I would entreat gentlemen who are opposed to me, said Mr. C., to pause and reflect; and to point out, if possible, the slightest flaw in the argument, or to find a peg on which to hang a doubt. Can they deny that all powers under the constitution are either powers specifically granted, or powers necessary and proper to carry such into execution? Can it be said that there are inherent powers comprehended in either of these classes, and existing by a sort of divine right in the government? The Senator from New York (Mr. Wright) attempted to establish some

such position, but the moment that my colleague touched it with the spear of truth, he (Mr. W.) shrunk from the deformity of his own conception. Or can it be asserted that there are powers derived from obligations higher than the constitution itself? The very intimation of such a source of power hurled from office the predecessor of the present incumbent. But if it cannot be denied that the powers under the constitution are comprised under one or the other of these classes, and if it is acknowledged, as it is on all sides, that the power of dismissal is not specifically granted by the constitution, it follows by irrefragable and a necessary consequence, that the power belongs not to the Executive but to Congress, to be regulated and controlled at its pleasure.

I would be gratified, said Mr. C., that any one who entertains an opposite opinion would attempt to refute this argument, and to point out wherein it is defective; and such perfect confidence do I feel in its soundness, that I will yield the floor to any Senator who may rise and say he is prepared to refute it. [Here Mr. Talmadge, from New York, rose, and said that he was not satisfied with the argument and would attempt to show its error.—Mr. C. sat down for the purpose of giving him an opportunity, when Mr. T. began a formal speech, on the subject generally, without attempting to meet Mr. C.'s argument, when the latter arose and said, that Mr. T. had mistaken him; that he did not yield the floor for the purpose of enabling Mr. T. to make a speech, but to enable him to refute the argument which Mr. C. had advanced, and that if Mr. T. was not prepared to do so, he, Mr. C., would proceed in the discussion.]

Mr. C. proceeded and said: The argument on which I have replied, has been alluded to by the Senator from Tennessee (Judge White), and my friend from Kentucky, who sits before me (Judge Bibb), and the Senator from Tennessee (Mr. Grundy,) whom I am sorry not to see in his place, attempted a reply. He objected to the argument, on the ground that the construction put upon the clause of the constitution which has been quoted, would divest the President of a power expressly granted him by the Constitution. I must, said Mr. C., express my amazement that one so clear sighted and so capable of appreciating the just force of an argument, would give such an answer. Were the power of dismissal a granted power, the argument would be sound; but as it is not, to contend that the construction would divest him of the power, is an assumption without the slightest foundation to sustain it. It is his construction, in fact, which divests Congress of an expressly granted power, and not ours which divests the President of his. He would take from Congress the authority expressly granted of passing all laws necessary and proper to carry into effect the granted powers, under the pretext that the exercise of such power on the part of Congress would divest the Executive of a power not where granted in the Constitution.

I feel, said Mr. C.; that I must appear to repeat unnecessarily what of itself is so clear and simple as to require no illustration; but I know the obstinacy of party feeling and pre-conceived opinions, and with what difficulty they yield to the clearest demonstrations. Nothing can overthrow them but repeated blows. Such, said Mr. C., are the arguments by which I have been forced to conclude, that the power of dismissing is not lodged in the President, but is subject to be controlled and regulated by Congress. I say forced, because I have been compelled to the conclusion in spite of my previous impression.—Relying upon the early decision of the question, and the long acquiescence in that decision, I had concluded, without examination, that the decision had not been disturbed because it rested upon principles too clear and strong to admit of doubt. I remained passively under this impression until it became necessary, during the last session, to examine the question, when I took up the discussion of '98, with the expectation of having my previous impressions confirmed.—The result was difficult. I was struck on reading the debate, with the superiority of the argument of those who contended that the power was not vested by the Constitution to the Executive. To me they appeared to be far more statesman like, than the opposite argument, and partaking much more of the spirit of prophecy. After reading this debate, I turned to the Constitution, which I read with care in reference to the subject discussed, when, for the first time, I was struck with the full force of the clause which I have quoted; and which, in my opinion, forever settles the controversy.

I will now (said Mr. C.) proceed to consider what will be the effect on the operation of the system under the construction which I have given.—In the first place it would put down all discretionary power, and convert the government into what the framers intended it should be, a government of laws and not of discretion.—If the construction be established, no officer, from the President to the Constable—and from the Chief Justice to the lowest judicial officer, could exercise any power but what is expressly granted by the Constitution or by some Act of Congress. And thus, that which in a free state is most odious and dangerous of all things, the discretionary power of those who are charged with the execution of the laws, will be effectually suppressed and the dominion of the laws be fully established.

It would, in the next place, unite, harmonize, and blend into one whole, all the powers of the government and prevent that perpetual and dangerous conflict which would necessarily exist between the departments of this Government under the opposite construction. Permit each department to judge of the extent of its own powers, and to assume the right to exercise all powers which it may deem necessary and proper to execute the powers granted to it, and who does not see, that in fact the government would consist of three independent, separate and conflicting departments, without any common point of union, instead of one united authority controlling the whole? Nor would it be difficult to see, in what this contest between conflicting de-

partments would terminate. The Executive must prevail over the other departments. Without its concurrence the action of the other departments are impotent; if neither the decrees of the Court, nor the acts of Congress, can be executed but through the Executive authority, and if the President be permitted to assume whatever power he may deem to be appurtenant to his granted powers, and to decide according to his will and pleasure, and on his own responsibility, whether the decision of the Courts or the acts of Congress are or are not consistent with the rights which he may arrogate to himself, it is impossible not to see that the authority of the legislative and judicial departments would be under his control. Nor is it difficult to see that if he may add the power of dismissal to that of appointing, and thus assert unlimited control over all who hold office, he would find but little difficulty in maintaining himself in the most extravagant assumption of power. We are not without experience on this subject. To what but to the false and dangerous doctrine against which I am contending, and into which the present Chief Magistrate has fallen, are we to attribute the frequent conflicts between the executive and the other departments of the government; and which so strongly illustrates the truth of what I have stated? Under the opposite and true view of our system, all these dangerous jars and conflicts would cease. It unites the whole in one, and the legislative becomes as it ought to be, the centre of the system—the stomach and the brain, into which all is taken, digested and assimilated, and by which the action of the whole is regulated by a common intelligence, and thus without destroying the distinct and independent functions of the parts. Each is left in possession of the powers expressly granted by the constitution, and which may be executed without the aid of the legislative department; and in the exercise of which there is no possibility of coming into conflict with the other departments, while all discretionary power necessary to execute the granted, in the exercise of which the separate departments would necessarily come into conflict, are, by a wise and beautiful provision of the constitution, transferred to Congress, to be exercised solely according to its discretion, and thus avoiding, as far as the departments of the government are concerned, the possibility of collision between the parts. By a provision no less wise, this union of power in Congress, is so regulated, as to prevent the legislature from absorbing the other departments of the government. To guard the executive against encroachment of Congress, the President is raised from his mere ministerial functions to a participation in the Constitution, his approval is required to the acts of Congress; and his veto, given him as a shield to protect him against the encroachment of the legislative department, can arrest the acts of Congress, unless passed by two-thirds of both houses—and here let me say, that I cannot concur in the resolution offered by my friend from Maryland, (Dr. Kent) which proposes to divest the Executive of his veto. I hold it to be indispensable, and that mainly on the ground that the constitution has vested in Congress the high discretionary power under consideration, which, but for the veto, however indispensable for the harmony and unity of the government, might prove destructive to the independence of the President. He must indeed be a most feeble and incompetent chief magistrate, if, aided by the veto, he would not have sufficient influence to protect his necessary powers against the encroachments of Congress—nor is the judiciary left without ample protection against the encroachments of Congress. The independent tenure by which the judges hold their office and the right of the court to pronounce when a case comes before them, upon the constitutionality of the acts of Congress, as far at least as the other departments are concerned, affords to the judiciary an ample protection. Thus all the departments are united in one, so as to constitute a single government, instead of three distinct, separate and conflicting departments, without impairing their separate and distinct functions, while at the same time, the peace and harmony of the whole are preserved.

There remains, said Mr. C., to be noted, another consequence not less important.—The construction for which I contend, strikes at the root of that dangerous control which the President would have over all who hold office, if the power of appointing and removal, without limitation or restriction, were united in him. Let us not be deceived by names. The power in question is too great for a Chief Magistrate of a free State. It is in its nature an imperial power—and if he be permitted to exercise it, his authority must become as absolute, as that of the Autocrat of all the Russias.—To give him the power to dismiss, at his will and pleasure without limitation or control, is to give him an absolute and unlimited control over the subsistence of almost all who hold office under Government—let him have the power, and the sixty thousand who now hold employment under Government, would become dependent upon him for the means of existence; of that vast multitude, I may venture to assert, that there are very few whose subsistence does not more or less depend upon their public employment.—Who does not see, that a power so unlimited and despotic, over this great and powerful people, must tend to corrupt and debase those who compose it, and to convert them into the supple and willing instruments of him who wields it? And here let me remark, (said Mr. C.) that I have been unfairly represented in reference to this point. I have been charged, to assert, that the whole body of office holders are corrupt, debased and subservient!—With what views, those who made this charge, can best explain. I have made no such assertion—nor could it with truth be made. I know that there are many virtuous and high minded citizens who hold public office, but it is not therefore the less true, that the tendency of the power of dismissal is such as I have attributed to it; and that if the power be left unqualified, and the practice be continued as of late, the result must be the complete corruption and debasement of those in public em-

ploy. What, (Mr. C. asked,) has been that powerful cause that has wrought that wonderful change which history teaches us has occurred, at different periods, in the character of nations? What has bowed down that high genius and chivalrous feeling; that independent and proud spirit which characterized all free States, in rising from the barbarous to the civilized condition? and which finally converted them into base sycophants and flatterers? Under the operation of what cause did the proud and stubborn conquerors of the world—the haughty Romans, sink down to that low and servile debasement, which followed the decay of the Republic? What but the mighty cause which I am considering? the power which one man exercised over the fortunes and subsistence, the honor and standing of all those in office, or who aspired to public employment? Man is naturally proud and independent, and if he loses these noble qualities in the progress of civilization, it is because, by the concentration of power, he who controls the Government becomes deified in the eyes of those who live and expect to live by its bounty. Instead of resting their hopes on a kind Providence and their own honest exertions, all who aspire, are taught to believe that the most certain road to honor and fortune, is servility and flattery. We already experience its corroding operation. With the power of Executive patronage, and the control which the Executive has established over those in office, by the exercise of this tremendous power, we witness among ourselves the progress of this base and servile spirit, which already presents so striking a contrast between the former and present character of our people.

It is in vain to attempt to deny the change. I have marked its progress in a thousand instances within the last few years. I have seen the spirit of independent men holding public employ, sink under the dread of this dreadful power. Too honest and too firm to become the instruments or flatterers of power, yet too prudent, with all the consequences before them, to whisper disapprobation of what in their hearts they condemned. Let the present state of things continue—let it be understood that none are to acquire the public honors or to attain them but by flattery and base compliance, and in a few generations the American character will become utterly corrupt and debased.

Now is the time to arrest this fatal tendency, much will depend upon the vote on the measure which is now before you. Should it receive the sanction of this body and the other branch of the Legislature, and the principle be now established, that the power of dismissal is subject to be regulated by the action of Congress, and not as is contended for by the friends of the bill, the Executive system may yet be arrested. The discretionary and despotic power, which the President has assumed to exercise over all in the public employ, and public officers, instead of being controlled by the mere agents of the Executive department, and liable to be dismissed at his will and pleasure, without regard to conduct, would be placed under the protection of the laws.

But it is objected by the Senator from Tennessee, (Mr. Grundy,) that the construction for which I contend would destroy the power of the President, and arrest the action of the Government. I must be permitted to express my surprise (said Mr. C.) that such an objection should come from that experienced and sagacious Senator. He seems entirely to forget that the President, not only possesses executive powers but also legislative, and that he is not only a chief magistrate, but also a part of the law making power. Does he not recollect that the President has his veto? And that no law can be passed, which would improperly diminish the authority which ought to belong to him as chief magistrate without his consent, unless passed against his veto by two thirds of both houses? An event which it is believed had not occurred, since the commencement of the Government, and the occurrence of which is highly improbable. How then can it be asserted that the construction for which I contend, would destroy the just authority of the President? Every proposition to regulate and control the power of dismissal would become a question of expediency, and would be liable to be assailed by all who might suppose that it would impair improperly the power of the chief magistrate; and seconded as they could be, by the veto, if necessary, there could be but little danger that restrictions too rigid would be imposed on his authority. The Senator from Tennessee also objects that the measure would be impracticable, and asks with an air of triumph, what would the Senate do, if the reasons of the President should be unsatisfactory?

I do not (said Mr. C.) agree with those who think that the Senate can or ought to continue to reject the nomination of the President in such cases until the officer who has been dismissed shall be restored. I believe that course to be impracticable and that in such a struggle the resistance of the Senate would be finally overcome. My hope is that the fact itself that the President must assign reasons for removal would itself go far to check the abuses which now exist. I cannot think that any President would assign to the Senate as a reason for removal, that the officer removed was opposed to him on party grounds. Such is the deceptive character of the human heart that it is reconciled to do many things under plausible covering which it would not openly avow; but suppose there should be a President who would act upon the principle of removing on a mere difference of opinion, without any other fault in the officer, and who would be bold enough to avow such as his reason, Congress would not be at a loss for a remedy, the principle for which I contend. A law might be passed that would reach the case. It might be declared that the removal by the President, if his reasons should not prove satisfactory, should act merely as a suspension to the termination of the next ensuing session, unless filled by the advice and consent of the Senate.

The Senator from Tennessee has conjured up a state of frightful collision between the Executive

and the dismissed officers, and has represented the Senate Chamber as the arena where this conflict, must be carried on. He says if the President should be bound to assign his reasons, the party dismissed would of right have a claim to be heard as to the truth and correctness of those reasons, and that the Senate would have its whole time engrossed in listening to the trial. All this is merely imaginary, if the President on his part should exercise the power of removal with discretion and justice, which he ought, and with which all the predecessors of the present chief magistrate have in fact exercised it. Does he suppose if a measure, such as is now before the Senate, had been in operation at the commencement of the Government, that the father of his country—a man no less distinguished by his moderation than his wisdom, would have experienced the least embarrassment from its operation? Does he suppose that the dismissal of nine officers in eight years during the Presidency, would have given all that annoyance to him and this body, which the Senator anticipates from the measure? Would there have been any difficulty in the time of the elder Adams, either to himself or to the Senate, from the ten officers whom he dismissed during his Presidency? Would any have been experienced during Mr. Jefferson's Presidency of eight years, even with the forty two whom he dismissed? or in the Presidency of Mr. Madison, that mild and amiable man, who in eight years of great excitement, of which nearly three were a period of war, dismissed but five officers? Or during the Presidency of Mr. Monroe, who, in eight years, dismissed but nine officers? Or of the younger Mr. Adams, who in four years dismissed but two officers? Come now, said Mr. C., to the present administration, and here I concede, that with the dismissal of 530 officers in the first year, and I know not how many since, the scene of trouble and difficulty both to the President and Senate, which the Senator from Tennessee (Mr. Grundy,) painted in such lively colors, would have occurred; had the measure been in operation, this however constitutes no objection to the measure; but to the abuse; the gross and dangerous abuse of the power of dismissal which it is intended to correct. It is a recommendation that it would impede and embarrass the abuse of so dangerous a power. The more numerous and greater the impediment, to such abuses the better. I apprehend, said Mr. C., that the Senator from Tennessee, (Mr. Grundy,) entirely misconceives the operation of the measure, under a discreet and moderate administration. Under such a one the charges exhibited against an officer would be transmitted to the accused; would undergo a regular trial, and the officer, if found guilty, would be dismissed before the charge would be acted on. If sustained and the officer be discharged, the whole proceedings would accompany the nomination of the successor, as showing the grounds on which he was dismissed.

During the time, said Mr. C., that I occupied the place of Secretary at War, under Mr. Monroe, two officers of the government, holding civil employ, connected with that department, were dismissed for improper conduct; and in both cases the course which I have indicated was adopted.—The officers were not dismissed until after a full investigation, and the reasons for dismissal reduced to writing and communicated to them.

But the Senator from Tennessee (Mr. Grundy,) further objects, that the construction for which I contend would concentrate all powers of the government in Congress, and would thus constitute the very essence of despotism which consists, as he asserts, in uniting the powers of the three departments in one. I could, said Mr. C., hardly have anticipated, that one whose conceptions are so clear on most subjects would venture so bold an assertion. Has not the Senator reflected on the nature of the legislative department in our system. To make a law, it is necessary not only to have the participation of the two Houses, but that also of the Executive, except indeed in the case of a veto, when, as has been stated, the measure must be passed by two-thirds of both Houses. Does he not see from this, that to vest Congress, as the Constitution has done, with all the discretionary power, is to vest the power not simply in the two houses, but also in the President—and is in fact to require the concurrence of both Departments to the exercise of such high and dangerous powers, instead of leaving it to each separately, as would have been the fact without this wise provision? I will tell the Senator that it is the doctrine for which he, and not that for which we contend, which leads to concentration—a doctrine which would leave to each department to assume whatever power it might choose, and which in its necessary effects, as has been shown, would concentrate all the powers of the government in the Chief Magistrate. This process has been going on under our eyes rapidly for the last few years; and yet the gentleman who appears now to be so sensitive as to the danger of concentration, looks on with perfect indifference, not to say with approbation. We have, said Mr. C., lost all sensibility; we have become callous and hardened under the operation of those deleterious practices and principles which characterize the times. What a few years since would have shocked and roused the whole community, is now scarcely perceived or felt. Then the dismissal of a few inconsiderable officers, on party grounds, as was supposed, was followed by a general burst of indignation; but now the dismissal of thousands, when it is openly avowed that the public offices are the “spoils of the victors,” produces scarcely a sensation. It passes as an ordinary event.

The present state of the country, said Mr. C., was then anticipated. It was foreseen as far back as 1826, that the time would come when the income of the government and the number of those in its employ would be doubled, and that the control of the President, with the power of dismissal, would become irresistible. All of which was urged as an inducement for reform at that early period; and as a reason why the administration then in power should be expelled, and those opposed to them would