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BY GEORGE HOWARD,

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## DOMESTIC.

From the Globe.

Messrs. Ewing, Southard, and Knight, of the Senate's Post Office Committee, against the Postmaster General.

The country has already observed and condemned the attempt of the Senate to encroach upon the peculiar rights vested in the House of Representatives and in the Executive Department—The Senate's impeachment of the President's motives for the removal of the deposits—his solemn conviction for a violation of the laws and the constitution—the final vote of censure passed upon him—and all without the filing of charges by the House of Representatives, or even hearing the party accused—public opinion has already denounced as the most high-handed act of usurpation ever witnessed in any free Government. The English Government itself furnishes no parallel even in its Star Chamber Judicature. And what added to its enormity, is the fact, that the majority engaged in it, were perfectly aware that power they exercised against right, was put in their hands by the treachery of certain Senators who audaciously violated authentic legislative instructions from their immediate constituents.

This monstrous outrage upon the constitution—the rights of the People—the rights of the People's Representatives, and the rights of the Executive Department, is now improved upon by Messrs. Ewing, Southard, and Knight—three men, who notoriously misrepresent their own constituents, and who are, in fact, the mere instruments of the Junto in the Senate which is at war with the principles of the States which they should represent. This trio, it will be seen by the response of Major Barry, which we annex, have assumed the right to prosecute a scrutiny into the motives of the Postmaster General in removing and appointing his Deputies. And with this view, have called upon him for his correspondence in relation to a certain removal and appointment. Their object is to make it a precedent for throwing open his bosom, and that of every individual who has written to him throughout the United States, upon the subject of a removal or appointment.

But the most extraordinary feature of this demand, on the part of the Senate's trio of impeaching Inquisitors, is, that they have made it in defiance of a vote of their own body—the Senate! The question was fairly made—fully considered—and finally decided upon, by a majority of the very body under whose authority they act—and it was solemnly resolved, that the Senate had no right to prosecute an inquiry into the reasons of the Postmaster General in making his removals and appointments.—And yet in the face of this positive interdict of a majority of the Senate—several of their own political friends voting that the Senate had no right to look into the motives of the Executive officer in the discharge of his appropriate functions—this Committee of Impeachers demand of Mr. Barry the key of his secretary, that they may pry into his motives, for removals and appointments, through his correspondence.

Messrs. Ewing, Southard, and Knight, knew before they left their homes, that

the Senate's resolution forbade the course they contemplated. Yet they came on to Washington, and seem to have had scarcely any other business than to ask for that, which the Senate itself has denied them the right to demand. Although the whole Department, with all its books and papers, in relation to its management, was thrown open to them, these gentlemen have adjourned over, and we understand that Mr. Southard is already in New Jersey, and Mr. Ewing soon to make his appearance in Ohio. It is certain that the elections in these States require their attention. As they have not been able to add any thing to the misrepresentations of their last report against the Post Office Department, to aid them in the elections, we thought it not improbable that they made their demand of Mr. Barry for what they knew he was bound to refuse according to the resolution of the Senate, that they might make something out of that refusal, by misrepresenting it, and at a moment when it would be too late for correction. We have therefore obtained the response of the Postmaster General for publication, that the People might understand the whole matter, and be prepared to meet any imposture, which these instruments of the Bank might attempt to play off, with instant exposure.

To the Hon. WM. T. BARRY,  
Postmaster General.

Sir: The committee of the Senate on the Post Office ask for the inspection of all the original letters and papers in your office concerning the removal of H. Safford, and the appointment of J. Herron, as Postmasters at Putnam, Ohio.

Very respectfully, sir, your obed't serv't,  
FELIX GRUNDY, Chairman.  
WASHINGTON, 22d Sept. 1834.

POST OFFICE DEPARTMENT,  
October 18, 1834.

Sir: I have the honor to acknowledge the receipt of the official note, which it became your duty as Chairman of the Committee of the Senate on the Post Office to address me, asking, in behalf of the Committee, for the inspection of "all the original letters and papers" in my office, concerning the removal of H. Safford, and the appointment of J. Herron, as Postmaster at Putnam, Ohio.

Sincerely disposed to comply with the calls of the Committee for information, I feel restrained in this instance by a regard for those fundamental principles which mark the division between the co-ordinate branches of our Government, and which, in their application, show how far the Committee may justly proceed in its inquiries. In declining to comply with this call, I am influenced by no desire to conceal the papers (of which an inspection is asked) respecting the office at Putnam, Ohio; nor do I hesitate by reason of any thing in the nature of the motives which induced me to make the change at that office fully to set them forth. The course I adopt is dictated by higher and more important considerations.

As the Committee have already called for, and been informed of the facts in this case by an official communication, stating what appears upon the books of the Department respecting the time of the appointment of Mr. Herron, and the state of his accounts, no motive of the call for an inspection of the letters and papers is perceived, other than a desire on the part of the Committee to ascertain the reasons of the change; and if principles forbid that, as the head of an Executive Department, I should be called upon to yield these, they also deny to the Committee the right of inspecting the letters and papers as demanded.

The principles applicable to this subject flow from the constitutional organization of our Government, and from the character which that organization has impressed upon the Senate. The constitution recognising three kinds of powers, separates accordingly those of our Government into three divisions. Each division of powers being intrusted to a separate body of magistracy, constitute the three Departments of the Government. As these Departments are co-ordinate, the magistracy of one branch is not responsible to another, by reason of any supposed constitutional inferiority or subordination to it; but the officers of every branch are alike responsible, by the distinguishing feature of our institutions, to the People. This responsibility I have ever felt and acknowledge.

\* Transmitted to the Committee on the 2d of October.

As the operations of the Government should be the just execution of the People's will, in modes compatible with the organic law which they have adopted, I deem it the duty of the public officer intrusted with discretionary powers, to observe the indications of that will, and act conformably to its requirements. The expression of these views will prevent misapprehension, and destroy the supposition that I would claim the right to exercise power arbitrarily and without control. They will show that whilst I will not give the reasons of action to those who assume to ask them without right, I do not affect to impair the responsibility for acts, which I shall ever acknowledge to that great tribunal, whose judgments in our country are happily as correct as they are final.

As an Executive officer, subordinate to the President, in whom is vested the general Executive powers of the Government, I feel the responsibility to him which flows from my relation of inferiority to the Chief Magistrate. This responsibility of an officer in one Department of the Government to the Head of that Department, results from the very nature of Government, and is felt in every branch.

In addition to these accountabilities of every officer to the people, and to his chief, the constitution has specially provided in certain cases for a responsibility to another Department of the Government. This responsibility appears to have been created for the purpose of practically enforcing, in relation to the executive and judicial departments of the Government, that accountability to which all are alike subject—the legislative being responsible by the means of frequent elections. The process to enforce this responsibility to the nation, is that of impeachment; in pursuing which, the legislative branch lays aside its appropriate character, and exercises judicial functions. The power of impeachment, vested in the Legislature, confers upon it no right to take part in the performance of executive or judicial duties. It is a right merely to try officers of other Departments for acts of offence, and might have been vested in a tribunal specially constituted for the purpose.

It seems to result from the independence of the departments of the Government in their appropriate spheres, except so far as is specially provided by the constitution, and from the different nature of their respective functions, that no Department can take part in the performance of duties properly pertaining to another; that executive functions are to be exclusively committed to executive officers, free from the control of the members of the Legislature; and that the judgments of the courts are to be rendered without the interference either of the executive or legislature. It is this complete separation of the powers of Government vested in different bodies of magistracy, which, next to the responsibility of every branch to the People, constitutes the chief guarantee of good government.

Duty and the interest of the nation alike require, therefore, that each body of magistracy should guard with jealousy the powers intrusted to it from the encroachments of other branches of the Government. The first instance of assumption by one department of powers belonging to another, or of a control successfully exercised by one Department over another in the performance of duties confided by the constitution and laws exclusively to the latter, may be the commencement of a series of violations of constitutional principles, to end only in the total destruction, however formally they may be preserved, of the barriers which the wisdom of the People has placed between them. Whilst these principles deny to the Legislature a participation in the performance of executive acts, they do not in any manner affect its right to prescribe, by constitutional enactments, the duties of executive officers.

Without noticing the peculiar organization of the Post Office Department, distinguishing it from other Executive Departments, I will observe, that the power of appointment to office is in its nature an executive power. Accordingly, the constitution vests it in the executive branch of the Government, with some few exceptions, such as Clerks of Courts, officers of Congress, &c. whose appointment being otherwise specially directed, proves the correctness of the position assumed, and shows, that whilst the framers of the constitution proceeded upon certain general principles, they admitted exceptions where propriety and convenience dictated them. In appointing a Postmaster at Putnam, Ohio, therefore, the Postmaster General performed an executive function. In the discharge of this duty, the legislative branch had no right to interfere or participate. The time of the appointment, and the person to be selected, were matters for executive consideration. To the discretion of the Postmaster General, under the responsibilities before mentioned, it was by the constitution, and laws exclusively referred to determine when, and whom to appoint. The reasons to influence

the conclusion were submitted to him. They may have existed in public memorials, in private letters, or in his own mind. He was not bound to submit their sufficiency to the judgment of either House of Congress, or any of their committees. The law vested in him the final determination, and the power to act accordingly. Can it be urged, now when an appointment is made, that a Committee of the Senate, which would have had no right to a pre-examination of the case, to which he was not bound by law to submit it before acting upon it, has a right to examine the reasons upon which he proceeded? For what purpose is the exercise of the right claimed? Is it that the Committee may revise, and, if proper in their opinion, reverse the decision which he made? And if so, would it not be better at once to provide for taking beforehand the opinion of the Senate, or its Committee, and thus save the necessity for two decisions?

If the Committee have the right to look for reasons in the letters on file in the Department, is it not equally entitled to examine the Head of the Department personally, and ask what motive induced him to make the appointment? If not, the inquiry might be very imperfect, for in a particular case there might be no papers on file relating to the appointment, or the Head of the Department might have been governed by a reason within his own knowledge, but not stated in any document received by him. And if the principle which alone can sanction the inquiry of the Committee be correct, and the appointing officer be bound to exhibit his reasons, is it not necessary, in order that this exhibition, whenever required, may be perfect, that a record should be made of the reasons in every case? Yet was this ever deemed requisite, or even proper in any Executive Department.

The appointment of superior officers of the Government is vested in the President and Senate. When the President nominates an individual for office, has the Senate a right to demand an inspection of all the letters and papers received by him relating to it? And if the Senate should ask for such inspection, will it be said the President is bound to give it? The President may, and perhaps actually does, lay before the Senate, such of the papers received by him respecting the appointment, as he deems proper, for the purpose of informing Senators of the character and qualifications of the person nominated. It is believed, however, that no one would express the opinion, that he is bound to lay all the papers before the Senate; and yet this is the case of an appointment vested in the President and Senate jointly. There might be some utility in requiring, that each branch of the appointing power should have the benefit of the information received by the other. If the Senate possessed the right to demand of the President the reasons why he made a nomination, might it not with equal propriety be urged, that the President may demand of the Senate, and the Senate be bound to answer, why it rejected it? To the establishment of this doctrine it is presumed the Senate would object, and yet it is the result to which we would arrive by sanctioning the principle involved in the call of the Committee.

If the Senate have no right to call upon the President to assign the reasons for, or submit the papers respecting a nomination to which its consent is asked, with less propriety can it be said that it possesses the right in itself or by its Committee, to demand of the President or any other Executive officer, the reasons of an appointment, which that officer has, by the constitution and laws, the exclusive power of making. It seems to be a clear result, that the right of the Senate to an examination of papers or reasons must be less, if possible, in a case of appointment with which it has no concern, than in that wherein its approbation must be had.

The course pursued by the Committee, if sanctioned and continued, might end in the virtual subjection of the power of appointing and removing Postmasters, to its will. If papers and letters are to be inspected and reasons examined by a Committee, which can remain constantly in session in any, or all cases, if it so resolve, the legal forms of appointments may be preserved; the Postmaster General may continue to affix his signature to commissions; but all must perceive, that he would do this under an influence increasing by its natural tendency to an absolute control in the hands of others, to whom all participation in the power of appointing Postmasters is denied by law.

The constitution of the United States, art. 2d, sec. 2d, provides, that Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the Courts of law, or in the Heads of Departments. Pursuant to this provision, Congress has enacted, that the Postmaster General shall establish Post Offices, and appoint Postmasters at all such places, as shall appear to him expedient on the post routes that are or may be established by law. In the Postmaster General, therefore, was vested,