

by a constitutional law, the power to appoint a Postmaster at Putnam, Ohio. No other officer of the Government has any participation in the power; neither is the Postmaster General bound by law to submit his views or reasons in regard to this, or other appointments, to any other branch of the Government. His only responsibility, in common with other officers of the Executive Department, being to the President, and to the power of impeachment and trial confided to the House of Representatives and Senate.

The case has been treated as one of appointment merely, and nothing has been said of the removal of the former Postmaster, because, when a new appointment is made and completed by the competent authority, as in the case at Putnam, Ohio, the removal of the former incumbent takes place by mere operation of law. It results from the new appointment and is not separable from it. No distinct act of removal takes place; no order to that effect is issued by the Department.

But regarding the removal as a distinct exercise of power, as little right in the Senate, or its committee, is perceived to demand the reasons of it, or an inspection of the papers upon which it was made, as in the case of the appointment. The power to remove is, like the power to appoint, executive in its nature, and consequently is confided by the provisions of the constitution to the Executive Department. No participation in this power is given to the Senate as in the power of appointment. At an early period in the history of the Government, the question of the right of the President to remove an officer appointed, with the consent of the Senate, was discussed in Congress. It resulted in a decision in favor of the right of the President. The discussion arose in 1789 in the House of Representatives, upon a motion to strike out of the bill to establish the Department of Foreign Affairs, now called the Department of State, a clause which declared the Secretary to be removable by the President. It was negatived by a majority of 34 to 20. Mr. Marshall, in his life of Washington (vol. 2d, page 162) remarks that—

"The opinion thus expressed by the House of Representatives, did not explicitly convey their sense of the constitution; indeed the express grant of the power to the President, rather implied a right in the legislature to give or withhold it at their discretion. To obviate any misunderstanding of the principle on which the question had been decided, Mr. Benson moved in the House, when the report of the Committee of the Whole was taken up, to amend the second clause of the bill, so as clearly to imply the power of removal to be solely in the President. He gave notice that if he should succeed in this, he would move to strike out the words which had been the subject of the debate. If those words continued, he said the power of removal by the President might hereafter appear to be exercised by virtue of a legislative grant only, and consequently, be subjected to legislative instability; when he was well satisfied in his own mind that it was by fair construction fixed in the constitution. The motion was seconded by Mr. Madison, and both amendments were adopted. As the bill passed into a law, it has ever been considered as a full expression of the sense of the legislature on this important part of the American constitution."

It seems to have been admitted on all sides in 1789, that the appointing power was competent to remove; the objection to the right of the President, on the part of the minority resting chiefly on the non-concurrence of the Senate (which participated in the appointment) in the act of removal. The solemn decision of Congress determined that a removal from office may be made by the President without the control or interference of the Senate. This being the principle in regard to officers appointed by the President and Senate, no doubt can be entertained of its governing the case of a removal by the President of an officer appointed by himself alone. It seems to follow, necessarily too, that the Heads of Departments in whom the power of appointing inferior officers is by law vested agreeably to the constitution, may remove them without the consent of the Senate, and without being bound to exhibit the case, or the reasons inducing the change, to the Senate, either before or after the act is performed. They possess the power of appointing inferior officers in the same manner that the President holds it in regard to superior officers. In each, it is purely an executive power, the exercise of which neither branch of the legislature has a right to interfere with, or influence.

The call of the committee can be sustained only upon the principle that the Senate alone has a right to inquire into the reasons which induced an executive officer to do a particular executive act, his discretion is undeniable. Give the principle assumed the advantage of an application to a whole co-ordinate Department of the Government: Has Congress a right to enquire into the reasons which induced the performance of any Executive act by the President, except in the case of an impeachment, when the inquiry must be by the House of Representatives? Or has either House of Congress the right to require of the Judges of the Supreme Court the grounds of its decision in any particular case in which it has rendered judgment? Can either House be required, by any power in the Government, to state the causes which induced it to remove one Secretary or Clerk and appoint another in his stead? These questions need no answer.

Whilst denying the right of the Senate's Committee to inspect the letters and papers received by the Department, respecting removals and appointments of Postmasters, or to examine the

reasons of them, I would not be understood as disclaiming any liability to scrutiny by the House of Representatives, or its committee, to which the Department may rightfully be subject; nor as affecting to impair that responsibility in regard to which it is the peculiar function of that branch of the Legislature to originate proceedings.

The views above taken in this answer would seem to have been entertained by the Senate of the United States in 1830. On the 28th April of that year, the following resolutions, offered by Mr. Holmes, were considered:

"Resolved, That the President of the United States, by the removal of officers, (which removal was not required for the faithful execution of the law,) and filling the vacancies thus created in the recess of the Senate, acts against the interest of the People, the rights of the States, and the spirit of the constitution.

"Resolved, That it is the right of the Senate to inquire, and the duty of the President to inform them, why, and for what cause or causes, any officer has been removed in the recess.

"Resolved, That the removals from office by the President, since the last session of the Senate, seem, with few exceptions, to be without satisfactory reasons, against the public interest, the rights of the States, and the spirit of the constitution. Wherefore,

"Resolved, That the President of the United States be respectfully requested to communicate to the Senate the names, and offices of the officers removed by him since the last session, with the reasons for each removal."

On motion of Mr. Grundy, they were indefinitely postponed, that is, virtually rejected, by the following vote:

"Yeas—Messrs. Adams, Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Grundy, Hayne, Iredell, Kane, King, Livingston, McKinley, McLean, Rowan, Sanford, Smith of South Carolina, Tazewell, Troup, Tyler, White, Woodbury—24.

"Nays—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Sprague, Webster, Willey—21."

In 1831, the subject was again discussed in the Senate, as will appear by the following extract from the journal of that year:

"February 15.—On motion by Mr. Grundy, the Senate resumed the consideration of the motion submitted by him on the 3d instant, as modified, declaring that the Select Committee appointed to inquire into the condition of the Post Office Department, are not authorized to make inquiry into the reasons which induced the Postmaster General to make any removals of his deputies.

"On the question to agree thereto, it was determined in the affirmative—yeas 24, nays 21.

"The yeas and nays being desired by one fifth of the Senators present, those who voted in the affirmative are,

"Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, Livingston, Poindexter, Robinson, Sanford, Smith of Maryland, Smith of South Carolina, Tazewell, Troup, Tyler, White, Woodbury.

"Those who voted in the negative are

"Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Marks, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Webster, Willey."

These proceedings of the Senate may be properly deemed conclusive against the right of your committee to ask the reasons of the removal of H. Safford from the office of Postmaster at Putnam, Ohio. The decision they contain, it is believed, has not been affected by any subsequent expression of the opinion of the Senate. It stands, therefore, an unimpaired affirmation by the body from which the committee derives its authority, of the correctness of the position I have assumed.

The powers of investigation conferred upon the committee, in 1830, to which the vote of the Senate denied the right of inquiring into the reasons of removals, were as extensive, it is believed, as those possessed by your committee; and amongst these was the power to send for and examine persons and papers.

If the reasons for the removal may be properly withheld from the committee, it can have no right to an inspection of the letters and papers as asked for. To say that the Department may withhold the reasons, and yet shall submit the letters and papers that may contain them, would be a conclusion to which it is believed no one can arrive.

The impropriety of yielding to an indiscriminate call for letters and papers, is obvious to all who will reflect upon the subject. Much of the correspondence of the Department is necessarily in its nature, strictly confidential, and the injunction is imposed by the writers. They do not usually consider the importance of separating confidential matter from that which is not so. Hence, in many cases, the same communication contains both, and it would be impossible to separate them. In such cases the Postmaster General could not, with any degree of propriety, yield the paper. Were he to do so, all confidence between him and his correspondents would be at an end. Facts, and the opinions of individuals of credit, and respectability in the neighborhood, respecting the conduct, character, and capacity of persons in office, and of applicants for appointment, would be withheld from the Department. No one who regards his domestic comfort and the peace of his neighborhood, would venture to state matter that would lead to recrimination, controversy, and litigation. In cases of mail depredations, which often lead to removals from office, it is all important that the Department should invite free communications both as to facts and opinions. By this means it is enabled to make discoveries. It often happens that in these inquiries, which are daily going on, circumstances are communicated that would seem

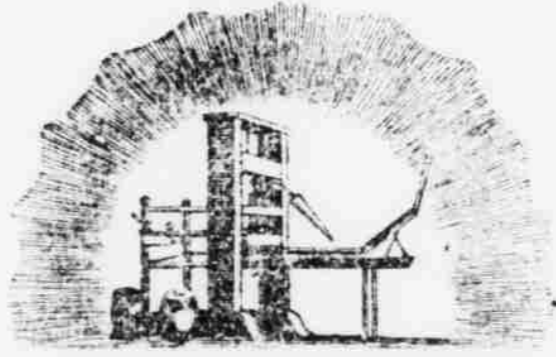
to explicate persons, who are found upon a full examination to be entirely innocent. The publication of such papers would be an act of cruelty, as well to the accuser as to the accused, and put neighborhoods at enmity that are now in peace and harmony. If the Postmaster General should yield to an unlimited call for papers, all confidence will be withdrawn from the Department. Depredations and defaults of every description will take place, not only on the part of Postmasters but of contractors, and other agents; the power of restraint over subordinates, will, to a great extent, be at an end, and the wholesome control, now exercised, will cease to exist.

It is not supposed that the principles which forbid that I should be called upon to give to the committee an inspection of the papers respecting an appointment and removal, deny in any manner its right fully to examine the condition and affairs of the Department, as directed by the resolution of the Senate. This examination has been and will be cheerfully aided by me. Neither is it in any manner urged that the reasons which show the freedom of the Department from the influence or interference of the Senate, or its committee, in respect to appointment, exempt it from any examination which, in the opinion of either House of Congress, the proper discharge of its legislative duties may make necessary. The right fully to investigate the affairs and transactions in every office of the Government, is incident to the power of legislation possessed by Congress, since the power to make laws, regulating and (when necessary) reforming the administration of the duties in the Executive offices, necessarily implies, for its proper and beneficial exercise, the power to demand and have information; and for this purpose, to send for and examine persons and papers.

These powers, and the corresponding duties of this Department, are fully acknowledged, and not sought to be lessened or impaired.

I have the honor to be your obedient servant,
W. T. BARRY.

To the Hon. FELIX GRUNDY, Chairman, &c.



TARBOROUGH:

FRIDAY, OCTOBER 24, 1834.

[P]We regret to learn that the Cholera is still prevailing at Washington, and that it has made its appearance in Petersburg, Va. The statements, however, are so vague and unsatisfactory, that we decline publishing them.

[P]We insert in the preceding columns a correspondence between the Chairman of the Post Office Committee of the Senate and the Postmaster General, (together with some strictures of the Globe,) concerning the removal of a Postmaster in Ohio and the appointment of his successor. In consequence of the refusal of the Postmaster General to comply with the request of the Committee, they have declined the further prosecution of their enquiries, and adjourned. Major Barry has certainly given some very substantial reasons for declining to comply with the request of the Committee, but it will be impossible to form a correct opinion as to the merits of the case until we hear the report of the Committee, which probably will not be made public before the meeting of the next Congress.

State Elections.—In Georgia and New Jersey, the Administration party maintain the ascendancy, and likewise in Pennsylvania, so far as heard from. We regret to learn that in Philadelphia and vicinity numerous acts of violence and outrage occurred, unprecedented in the annals even of party violence. At Moyamensing, fire arms were used, and 17 or 18 persons wounded, several of them mortally—some property was also destroyed. As usual, both parties cast all the blame of these disgraceful transactions upon their opponents.

The Opposition have carried the day in Connecticut and Delaware. No returns have yet been received from Ohio. The New York elections will also shortly take place.

[P]We fully concur in the opinions expressed in the following article taken from the Fayetteville Journal. Much dissatisfaction has been manifested, and expressed through our columns, against the proposed alteration, even by the most decided friends of the Administration. We can but hope that the attention of the Postmaster General may be directed to this subject, which we think is all that is requisite to insure a continuance of the present arrangement.

Mail Contracts.—As the period approaches for again letting the Mail Contracts, we avail ourselves of the occasion to express our regret that the Postmaster General has determined on reducing the mail facilities between this place and

Tarborough, from a four-horse post-coach to weekly, to a sulky mail once a week. The advantages of this route to the travelling public are too manifest, almost, to need commentary; traversing a country through which the best natural roads in the world are to be found, affording the most direct and speedy communication between Norfolk, the most important naval station in the Union, and the whole of the Southern and South-Western States. We believe that the proposed alteration will have a most unfortunate influence upon the interests of a large portion of the people in the Southern portion of the Union, without producing any very important benefit to the Department. A memorial has been forwarded to the Post Master General by a portion of our citizens, which, we hope, will have some influence in preserving this important line of mail communication.

[P]We insert to-day the Prospectus of the "North Carolina Standard," the new paper about being established at Raleigh. The following favorable notice of the proposed publication, is taken from the Washington Globe.

The North Carolina Standard.—We invite the public attention to the Prospectus of the North Carolina Standard, which will be found in our columns. The gentlemen who has determined to establish the Democratic Press at the Seat of Government of North Carolina, is already advantageously known to the People of that State as an editor of great talents—irreproachable probity—of enthusiastic attachment to the Republican principles of the Jefferson school, and as peculiarly qualified to maintain them by his energy, boldness, and his single hearted, disinterested patriotism.

Mr. White was one of the early and efficient friends of Gen. Jackson, when first named for the Presidency. He has been for some years abroad, as a Parser in the Navy, but has resigned that lucrative situation, to devote his talents to support the cause which has so long received the sanction of his State. We trust he has returned to his old avocation with renewed vigor and unshaken fortitude; for he will find a new foe in the field, which has every where directed its secret poison to sap the energy of the Republican Press, and subject it to the aristocracy. We believe, if Mr. White casts a look around him, he will find all the Democratic prints (with a few honorable exceptions) which once labored with him in North Carolina, devoted to the interest of the foreign Government, which has undertaken, through a Board of Directors at Philadelphia, to dictate to Congress—control the elections, (even that of the Chief Magistrate.)—and which has dared to seize and confiscate the public treasure, in defiance of all the public authorities.

We trust the friends of the Democracy, in every section of the Union, will make an effort to extend the circulation and increase the patronage of the North Carolina Standard. The character of the editor, and the position he has taken, renders the success of his undertaking of great importance to the Republican cause.

State Revenue.—As an evidence of the promptitude and punctuality of those entrusted with the collection of the Revenue of our State, we state that every Sheriff has settled his public account at the Treasury this year within the time prescribed by law. We have also the pleasure of stating that the amount of Taxes collected fully meets the expectations of the Treasury Department.

Ral. Star.

[P]Extract of a letter from a friend in Louisville, to the Editors of the Halifax Advocate, dated, Oct. 11th, 1834.

"Our Superior Court terminated this morning (Saturday.) The trial of Gillian Tharp, for the killing of Alsey Denton, was taken up on Thursday morning, and occupied nearly the whole day, when the case was submitted to the Jury, under the charge of the Judge. The Jury did not agree until some time in the night of Friday, when a verdict of manslaughter, was brought in. The Judge sentenced him to be imprisoned until the 1st day of January next, but at the request of the profession, the imprisonment was remit-