

Washington, Feb. 18th, 1834.

Hon. WILLIAM T. BARRY,
P. M. General.

Sir—At my request you have caused to be laid before me certain papers which induced the removal of Wiley Harben, Esq. Post Master of Gainesville, from his office. Among those papers I find charges preferred against Mr. Harben, to your predecessor the Hon. John McLean, by Henry L. Sims, on the 5th of Dec. 1827, which, after proper investigation, were considered as not sustained.—Charges, were also preferred to you on the 31st of July 1829, by Eli McConnell, and on the defence of Mr. Harben is endorsed "*answer to charges satisfactory.*" Again, on the 18th of Jan. 1831, other accusations were exhibited by William K. Love, and these also were considered unfounded. These, then, under every principle of justice, must be considered as out of the question in having any influence in your late decision, indeed the reverse would be expected for the establishment of innocence upon thrice repeated charges, before yourself in two of the cases, ought to create a suspicion of persecution rather than of guilt. His removal then is predicated upon a letter from John Bates, John McAfee, Nehemiah Garrison, and Joseph Dunagan, calling themselves Senator and Representatives from the county of Hall, addressed to the Hon. James M. Wayne, dated 16th of Dec. 1833, and a certificate of one George Kellog, unsupported by oath, bearing the same date. In the letter mentioned I gather two charges, 1st. To use the language of the accusers, "the appointment of a Post Master, even in a *country* village, since the origin of the miserable heresy of Nullification, has acquired an importance which perhaps was not before attached to it—We have been led to make these remarks from the fact that our Post Office at Gainesville, Hall county, is filled with a *Nullifier*, an enemy to President Jackson, & independent of these by a very unworthy man." They then mention what was known to you before, because acted upon and disposed to of your satisfaction, to wit, "numerous complaints have been often made by *our friends*, against him for misconduct in office." Then comes the second charge, namely, negligence in office, and this is supported by the certificate of George Kellog. The charge is made in the following words, "application was made at the Post Office by one of the undersigned (Gen' Bates) for his Newspaper, supposed to have been brought by the arrival of the *last mail*, when he was informed, that none were in the office directed to him. Afterwards he learned from a friend Mr. George Kellog, that he had seen the paper, enquired for at the Post Office by Gen' Bates, lying out in the street, before the Office, and from that Office, the street, the paper was taken and delivered." You will observe this charge is made from Milledgeville, on the 16th of Dec. 1833, and is very ambiguous, to say the least of it, as to the time when the act of negligence occurred, no day is assigned, and if the "*last mail*" before the date of the letter is meant, to wit, on the 16th of Dec. 1833, the testimony of Kellog is wholly on the contrary insufficient to support the charge, for his certificate is on the same day and refers to a fact that occurred twelve months before. What is Kellog's certificate. He says, "about twelve months ago, I was in the town of Gainesville, and near the Post Office door, I picked up in the streets the Federal Union Paper, directed to John Bates, of Hall county, and I have no knowledge how it came there; I returned the paper to the office, or to the owner, but which I do not now recollect." I appeal to your sense of justice and candour, to say whether this evidence sustains the charge, whether it says any thing about the "paper enquired for at the Post Office by General Bates;" whether your mind is satisfied, laying out of view that the accused party has not been heard, and who perhaps could have explained the whole matter, that this picking up of the paper by Kellog occurred exactly at the time when Bates applied for his paper, and was told that there was none directed to him? Is your mind satisfied that the paper, even if found in the street, come there by the negligence of the Post Master? Might not this circumstance have happened at a totally different time from that on which Bates' application was made, the paper dropt by himself or some one else, who had been requested to take it out? And does the character of the charge, as well as the certificate, so extremely indefinite as to time, and the subsequent disposition of the paper by the finder, leave no doubt upon your mind as to the guilt of the individual of having committed this act, of negligence? I feel entirely confident of an affirmative answer, and consequently, from the well known principles of evidence he stands acquitted of this part of the complaint. There is now nothing left but the objection to his political creed, and I distinctly understood from you the other day, an officer should not be turned out for opinion sake, unless he abused the administration by indecorous language, or active and violent opposition to its measures. Nothing of this appears in the charge, though it does appear in the language of the accusers that his removal is an object which they in common with the "*Union party* of our county have much at heart." I therefore put it to your justice to say whether you will not afford the accused a hearing as to the extent of his crime in indulging political opinions adverse to the administration? If you will not, you must expect that it is a principle of action under our free institutions against which every free man must protest, and in that character, and representing a people of like sentiments who may suffer under a similar proscription, I must, if the right to be heard is denied, enter my solemn protest.

Respectfully yours,

A. S. CLAYTON.

We concur in the views of Judge Clayton, and add our Protest to his.

SEABORN JONES,
R. H. WILDE,
G. R. GILMER,
THOMAS F. FOSTER,
R. L. GAMBLE,