



AMERICAN CONSTITUTIONALISM
 VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 5: The Jacksonian Era – Separation of Powers

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John Tyler, Speech on Jackson's Removal of Federal Deposits from the Bank (1834)¹

Although the Jacksonian Democrats generally shared the president's hostility to the Second Bank of the United States, they did not all agree with Andrew Jackson that the executive could unilaterally remove federal deposits from the Bank and place them elsewhere. The Whigs were uniformly critical of the president's actions. Senator Henry Clay, who had lost to Jackson in the 1832 elections, led the opposition. In the spring of 1834, Clay introduced a resolution in the Senate to censure the president for removing the deposits. The censure resolution was deeply controversial and became the focal point for the congressional debate over the presidential power to remove the deposits. A Whig majority in the Senate would eventually pass the censure resolution. A newly elected Democratic majority would expunge the resolution in 1837.

In 1834, the Virginia legislature was controlled by the Whigs and instructed the state's U.S. senators to oppose the president's removal of the deposits. The Democratic Senator John Tyler happily went along. In 1836, the state legislature was in the hands of the Democrats and instructed its senators to support expunging Clay's censure resolution. Tyler was a strong believer in the power of the state to instruct its senators. But in 1836, Tyler felt that he could not comply with his state legislature's instructions and was thus obliged to resign his seat in the Senate. The states' rights proponent Tyler was added to the Whig presidential ticket in 1840 to help attract independent voters, but he wound up opposing most of the Whig's favored policies.

... [I]n every violation of law there is danger; but when that violation amounts to a breach of the public faith – no matter to whom pledged – when it grasps the exchequer and places it under the Executive control . . . who can doubt but that there is danger – the greatest of all possible danger? . . .

If such be the nature of the late proceedings of the executive department, can any man find his apology for ratifying them in the mere fact, that the Bank of the United States is a great evil – that it ought never to have been created, and that it should not be rechartered. For one, I say, if it is to die let it die by law. It is a corporate existence created by law, and while it exists entitled to the protection which the law throws around private rights – if its privileges can be lawlessly seized upon, what security exists for individual rights. The rights of the bank are the rights of individuals – and shall it be held to be a justification for violent proceedings against it, that in the estimation of the President it is dangerous to the community . . . For the president to make this the ground of his proceeding is truly alarming. To ratify his claim to powers on this score is to arm him with all powers . . . to punish all offenders who offenses he may consider dangerous to the community. . . .

This, sir, is the aspect in which I regard this question, and this, I am instructed to say, is the light in which Virginia regards it. . . . Virginia is exactly where she has always been – against the assumption of power by the Congress or by the President. . . .

....

Sir, I have been reared in abhorrence of arbitrary power; and whether exerted by the imperial monarch on his throne . . . or by an official agent in our free republics, that feeling still predominates.

I conclude, then, that the Secretary had no authority under the law to have acted as he has done, and that he has therefore been guilty of a flagrant assumption of power.

¹ Excerpt taken from John Tyler, *Speech of the Hon. John Tyler of Virginia on Mr. Clay's Second Resolution on the Deposits Delivered in the Senate of the United States, February 24, 1834* (Washington, D.C.: D. Green, 1834).



. . . . The Secretary has assumed the power of establishing, at his own will and pleasure, treasury agents; in other words, of establishing a Treasury of himself. Whence has he derived this power? Does he derive it under any statute of this land? When I turn to the act [establishing the Treasury Department], I find no such authority. By that law the Treasurer is directed to *receive and keep* the public moneys. . . . He is responsible for the safe keeping of the public funds, no matter where he may place them. . . . This was the law up to 1816, when his responsibility ceased as to all such sums as were placed in the bank.

These things are done by command of the President. . . . I care not who takes the responsibility, I must declare it as my firm persuasion that powers have been assumed which the Constitution nowhere confers, and acts committed without sanction of law. By these assumptions the President holds in his hand the public purse. He places it where he pleases . . . In reply to this, we are told that there is no danger, no danger – that he has used none of the public money for his own purposes. . . . Is the Presidential power only to be considered dangerous when he is at the head of any army? Patronage is the sword and the cannon by which war may be made on the liberty of the human race. Is power won only by armies? Money is more powerful than armed men. . . . Sir, give the President control over the purse – the power to place the immense revenues of the country in any hands he may please, and I care not what you call him, he is “every inch a king.” . . .

I am against the bank. . . . I oppose it because it is unconstitutional, and that is reason enough. If the Constitution authorized its creation, no man with the experience of the past could well doubt the propriety of a well regulated and well guarded bank. . . . If my opinion could have any influence of the country, my advice would be, *restore* the deposits and amend the Constitution. . . . Why shall this dispute be periodically continued; let it be settled in one way or other by the States and settled permanently. . . . Sir, it is the last subject which ought to be handed over to politicians; there is too much distress produced by its agitation; the interests of the country too nearly connected with the subject to be eternally made the subject of political speculations . . .

We are continually told of the necessity of preserving the republican party. Such, sir, has been my constant effort since I have been in public life. I regard its preservation as connected to the preservation of the Union and of liberty. To its principles, I have continued to cling with all my soul and all my strength. But I will tell the Senate and the country, to what republican party I do belong – to that which brought Mr. Jefferson to power – which rests upon the federative principle – which rebukes every assumption of authority not warranted by the Constitution, which proclaims the inviolability of law, and the strict observance of public faith. To this party do I belong, not to that nondescript, patchwork, mosaic party which meets in convention and calls itself *the republican party*. Not to that party which changes its principles as the chameleon its color with every cloud or ray . . . No, sir, I belong not to that “republican party.” Its work is that of President making. . . . With that business, I have nothing to do. I hope the country will have nothing to do with it until the vital questions which now engage us shall be settled on a proper basis. . . . [U]nless those questions be properly settled, we may talk of a Constitution, but we shall have it not – we may boast of our laws, but they will be impotent and feeble – we may sing of liberty, but it will be the song of the bird in the cage.