



AMERICAN CONSTITUTIONALISM  
 VOLUME I: STRUCTURES OF GOVERNMENT  
 Howard Gillman • Mark A. Graber • Keith E. Whittington

Supplementary Material

OXFORD  
 UNIVERSITY PRESS

Chapter 5: The Jacksonian Era – Separation of Powers

---

*William Henry Harrison, Inaugural Address (1841)*<sup>1</sup>

---

*Democrats and Whigs engaged in sharp disputes over the presidential veto power. Jackson and his successors vetoed more laws and more important laws than any president in the early national period. Democrats defended aggressive use of the veto as the primary means by which the one national figure elected by the people could defend the Constitution against the entrenched interests that sometimes controlled the national legislature. Whigs condemned that stream of vetoes as undue executive policy making.*

*The constitutional debate over the veto power heated up in the 1840s. The first Whig president, William Henry Harrison (1773–1841), promised to limit vetoes to the rare occasion when Congress violated the constitution or endangered the nation. When Harrison died thirty days later, he was replaced by John Tyler. Tyler shared Andrew Jackson’s broad conception of the veto power. His vetoes during his years in office gutted the Whig legislative program. Whigs in Congress attempted to impeach Tyler for making too aggressive use of the veto. That effort failed. Whigs were no more successful when they proposed constitutional amendments repealing the presidential power to veto legislation. By 1860, the veto had become a major instrument by which presidents influenced legislation.*

*Harrison’s inaugural address was a précis of Whig dogma. Harrison identified what power a properly deferential president should exercise and emphasized what Whigs believed were the proper limits on the veto power. Unfortunately for the party, Harrison died soon after delivering that address. John Tyler, a party-switching Virginia strict constructionist, became president. Tyler quickly demonstrated that he had a more Democratic conception of the veto power.*

....  
 . . . [T]he great danger to our institutions does not appear to me to be in a usurpation by the Government of power not granted by the people, but by the accumulation in one of the departments of that which was assigned to others. Limited as are the powers which have been granted, still enough have been granted to constitute a despotism if concentrated in one of the departments. . . . [P]redictions were made [during the ratification debates] that at no very remote period the government would terminate in virtual monarchy. It would not become me to say that the fears of these patriots have been already realized; but as I sincerely believe that the tendency of measures and of men’s opinions for some years past has been in that direction, it is, I conceive, strictly proper that I should take this occasion to repeat the assurances I have heretofore given of my determination to arrest the progress of that tendency if it really exists and restore the government to its pristine health and vigor, as far as this can be effected by any legitimate exercise of the power placed in my hand.

I proceed to state in as summary a manner as I can my opinion of the sources of the evils which have been so extensively complained of and the correctives which may be applied. Some of the former are unquestionably to be found in the defects of the Constitution; others, in my judgment, are attributable to a misconstruction of some of its provisions. Of the former is the eligibility of the same individual to a second term of the Presidency. . . . [I]t is the part of wisdom for a republic to limit the service of that officer at least to whom she has entrusted the management of her foreign relations, the execution of her laws, and the command of her armies and navies to a period so short as to prevent his forgetting that he

---

<sup>1</sup> Excerpt taken from William Henry Harrison, “Inaugural Address,” in *A Compilation of the Messages and Papers of the Presidents*, ed. James D. Richardson, vol. 5 (New York: National Bureau of Literature, 1897), 1860.



is the accountable agent, not the principal; the servant, not the master. Until an amendment to the Constitution can be effected public opinion may secure the desired object. I give my aid to it by renewing my pledge heretofore given that under no circumstances will I consent to serve a second term.

....

It may be said, indeed, that the Constitution has given to the Executive the power to annul the acts of the legislative body by refusing to them his assent. . . . The negative upon the acts of the legislative by the executive authority, and that in the hands of one individual, would seem to be an incongruity in our system. Like some others of a similar character, however, it appears to be highly expedient, and if used only with the forbearance and in the spirit which was intended by its authors it may be productive of a good and be found one of the best safeguards to the union. . . . To assist or control Congress, then, in its ordinary legislation could not, I conceive, have been the motive for conferring the veto power on the president. This argument acquires additional force from the fact of its never having been thus used by the first six Presidents—and two of them were members of the convention . . . .

There is another ground for the adoption of the veto principal, which had probably more influence in recommending it to the Convention than any other. I refer to the security which it gives to the just and equitable action of the Legislature upon all parts of the Union. It could not but have occurred to the Convention that in a country so extensive, embracing so great a variety of soil and climate, and consequently of products, and which from the same causes must ever exhibit a great difference in the amount of the population of its various sections, calling for a great diversity in the employment of the people, that the legislation of the majority might not always justly regard the rights and interest of the minority. . . . It was proper, therefore, to provide some umpire from whose situation and mode of appointment more independence and freedom from such influences might be expected. Such a one was afforded by the executive department constituted by the Constitution. A person elected to that high office, having his constituents in every section, State, and subdivision of the Union, must consider himself bound by the most solemn sanctions to guard, protect, and defend the rights of all and of every portion, great or small, from the injustice and oppression of the rest. I consider the veto power, therefore, given by the Constitution to the Executive of the United States solely as a conservative power, to be used, first, to protect the Constitution from violation; secondly, the people from the effects of hasty legislation where their will has been probably disregarded or not well understood, and thirdly, to prevent the effects of combinations violative of the rights of minorities. In reference to the second of these objects I may observe that I consider it the right and privilege of the people to decide disputed points of the Constitution arising from the general grant of power to Congress to carry into effect the powers expressly given; and I believe with Mr. Madison that "repeated recognition under varied circumstances in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications in different modes of the concurrence of the general will of the nation," as affording the president sufficient authority for his considering such disputed points as settled.

....