



AMERICAN CONSTITUTIONALISM  
 VOLUME I: STRUCTURES OF GOVERNMENT  
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Supplementary Material

Chapter 5: The Jacksonian Era – Powers of the National Government

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*President James Polk, Veto of Internal Improvements Bill (1847)*<sup>1</sup>

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*Democrats retained the Jeffersonian skepticism of congressional authority to fund internal improvements in the states. Andrew Jackson believed that legislative and executive precedent had established federal power to spend money on national projects. He recognized a “well-settled acquiescence of the people and confederated authorities” on whether the national government could fund any internal improvements. Nevertheless, Jackson insisted that such projects could not be of a “purely local character.”<sup>2</sup> His first controversial veto rejected a bill providing funding for the extension of the Maysville Road, which perhaps not coincidentally ran through Whig leader Henry Clay’s home district.*

*The unconstitutionality of federal internal improvements became a routine plank in the Democratic Party platforms of the era. Subsequent Jacksonian presidents were, if anything, even more restrictive than Jackson. Presidents John Tyler, James Polk, Franklin Pierce, and James Buchanan issued vetoes that defined the later Democratic position on internal improvements and cast further doubt on the continued significance of the Court’s argument for broad congressional powers in *McCulloch v. Maryland* (1819). Polk provided an elaborate public statement on this issue in his 1847 veto of a river and harbor improvement bill. As you read Polk’s veto, you might consider how his argument compares with that of the Jeffersonian James Monroe twenty-five years earlier. Polk worries that if federal powers can be extended so far as to cover internal improvements, then no lines can be easily drawn to limit federal power in other areas. Is he right to be concerned? Is he right that there is or should be a constitutional preference for funding development projects locally?*

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The policy of embarking the Federal Government in a general system of internal improvements had its origin but little more than twenty years ago. In a very few years the applications to Congress for appropriates in furtherance of such objections exceeded \$200,000,000. In this alarming crisis, President Jackson refused to approve and sign the Maysville road bill . . . His interposition put a check upon the new policy of throwing the cost of local improvements upon the National Treasury, preserved the revenues of the nation for their legitimate objects, by which he was enabled to extinguish the then existing public debt and to [preserve] . . . a Government which was content to act within its appropriate sphere of protecting the States and individuals in their own chosen career of improvement and of enterprise. . . .

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If the power to improve a harbor be admitted, it is not easy to perceive how the power to deepen every inlet on the ocean or the lakes and make harbors where there are none can be denied. If the power to clear out or deepen the channel of rivers near the mouth be admitted, it is not easy to perceive how the power to improve them to fountain head and make them navigable to their sources can be denied. Where shall the exercise of the power, if it be assumed, stop? Has Congress the power when an inlet is deep enough to admit a schooner to deepen it still more, so that it will admit ships of heavy burden, and has it

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<sup>1</sup> Excerpt taken from James K. Polk, “Veto Message, December 15, 1847,” in *A Compilation of the Messages and Papers of the Presidents, 1789–1897*, ed. James Richardson, vol. 4 (Washington, D.C.: Government Printing Office, 1897), 610–626.

<sup>2</sup> Andrew Jackson, “Veto Message, May 27, 1830,” in *A Compilation of the Messages and Papers of the Presidents*, ed. James Richardson, vol. 3 (Washington, D.C.: Government Printing Office, 1897), 1050.



not the power, when an inlet will admit a boat to make it deep enough to admit a schooner? . . .

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Such a system could not be administered with any approach to equality among the several States and sections of the Union. There is no equality among them in the objects of expenditure, and if the funds were distributed according to the merits of those objects some would be enriched at the expense of their neighbors. But a greater practical evil would be found in the art and industry by which appropriations would be sought and obtained. . . . The true interests of the country would be lost sight of in an annual scramble for the contents of the Treasury, and the Member of Congress who could procure the largest appropriations to be expended in his district would claim the reward of victory from his enriched constituents. The necessary consequence would be sectional discontents and heartburnings, increased taxation, and a national debt, never to be extinguished.

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. . . . In his vetoes on the Maysville road bill, the Rockville road bill, and other bills of like character [President Jackson] reversed the precedents which existed prior to that time on the subject of internal improvements. When our experience, observation, and reflection have convinced us that a legislative precedent is either unwise or unconstitutional, it should not be followed.

No express grant of this power is found in the Constitution, its advocates have differed among themselves as to the source from which it is derived as an incident. In the progress of the discussions upon this subject the power to regulate commerce seems now to be chiefly relied upon, especially in reference to the improvement of harbors and rivers.

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That to "regulate" commerce does not mean to make a road, or dig a canal, or clear out a river, or deepen a harbor would seem to be obvious to the common understanding. To "regulate" admits or affirms the preexistence of the thing to be regulated. In this case it presupposes the existence of commerce, and, of course, the means by which and the channels through which commerce is carried on. It confers no creative power; it only assumes control over that which may have been brought into existence through other agencies, such as State legislation and the industry and enterprise of individuals. If the definition of the word "regulate" is to include the provision of means to carry on commerce, then have Congress not only power to deepen harbors, clear out rivers, dig canals, and make roads, but also to build ships, railroad cars, and other vehicles, all of which are necessary to commerce. There is no middle ground. . . . If a more extended construction be adopted, it is impossible for the human mind to fix on a limit to the exercise of the power other than the will and discretion of Congress. It sweeps into the vortex of national power and jurisdiction not only harbors—every species of improvement which can facilitate or create trade and intercourse . . . .

Should any great object of improvement exist in our widely extended country which can not be effected by means of tonnage duties levied by the States with the concurrence of Congress, it is safer and wiser to apply to the States in the mode prescribed by the Constitution for an amendment of that instrument whereby the powers of the General Government may be enlarged, with such limitations and restrictions as experience has shown to be proper, than to assume and exercise a power which has not been granted, or which may be regarded as doubtful in the opinion of a large portion of our constituents.

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