



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

Supplementary Material

Chapter 5: The Jacksonian Era – Separation of Powers

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*John Tyler, Statement upon Signing the Apportionment Act (1842)*<sup>1</sup>

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*President John Tyler created controversy when he signed bills passed by Congress as well as when he vetoed them. The Apportionment Act of 1842 was highly controversial on partisan, policy, and constitutional grounds. The Whigs in Congress were fairly united on the central constitutional question of whether Congress could and should prohibit the use of at-large elections to fill a state's delegation of members to the U.S. House of Representatives. The Democrats were fairly united in viewing the second section of the Appropriations Act, which required that states adopt district-based systems for House elections, as an unconstitutional infringement on the authority of the states.*

*The president had not been active in the apportionment debate, but when the bill was presented for his signature it emerged that he had doubts about the constitutionality of what his fellow Whigs had done. His doubts about this electoral measure seem not to be as grave as his doubts about substantive Whig policies on the Bank and protectionist tariffs, for he chose to sign rather than veto the Apportionment Act. Nonetheless, the president felt obliged to make clear that he did not fully endorse the constitutionality of the law. He expressed that opinion in the form of an official statement that was placed in the public records with the law itself. The Constitution did not require the president to give his reasons for approving a law (unlike a veto, which does require justification), and there were no substantial precedents for such a formal signing statement. Some members of Congress reacted with alarm, charging the president with imposing on an equal branch of government by gratuitously heaping constitutional doubts on an act of Congress and by attempting to insert them into the legislative record. The House referred the message to a select committee chaired by former president John Quincy Adams, who issued a stinging rebuke to Tyler.*

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When I was a member of either House of Congress I acted under the conviction that *to doubt* as to the constitutionality of a law was sufficient to induce me to give my vote against it; but I have not been able to bring myself to believe that a *doubtful opinion* of the Chief Magistrate ought to outweigh the solemnly pronounced opinion of the representatives of the people and the States.

One of the prominent features of the bill is that which purports to be mandatory on the States to form districts for the choice of Representatives to Congress, in single districts. That Congress itself has power to alter State regulations respecting the manner of holding elections for Representatives is clear, that its power to command the States to make new regulations or alter their existing regulations is the question upon which I have felt deep and strong doubts. I have yielded those doubts, however, to the opinion of the Legislature, giving effect to their enactment as far as depends on my approbation, and leaving questions which may arise hereafter, if unhappily such should arise, to be settled by full consideration of the several provisions of the Constitution and the laws and the authority of each House to judge of the elections, returns, and qualifications of its own members.

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<sup>1</sup> Excerpt taken from *A Compilation of the Messages and Papers of the Presidents*, ed. James D. Richardson, vol. 5 (New York: Bureau of National Literature, 1908), 2012–2013.