

PRESIDENT JOHN TYLER'S CONFLICTS WITH CONGRESS,  
1841 - 1842

By

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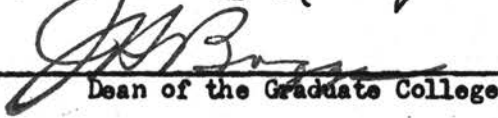
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## PREFACE

The years of President John Tyler's administration (1841-1845) have been largely untold in detail in our historical writings. Scholars have generally passed over this period for areas considered more fertile and interesting. History has cast Tyler in a shadow, and few Americans today know much about him except that he was the "Tyler too" who ran for the Vice-Presidency on a ticket with someone nicknamed "Tippecanoe." Few American Presidents have desired to be remembered by posterity as intensely as Tyler; yet he has become one of America's most obscure Chief Executives. Only two adequate biographies of him have appeared in the century and more since his death. Professor Oliver Perry Chitwood's scholarly study was published in 1939, and is the best work on Tyler.<sup>1</sup> Robert Seager, II, recently brought out an excellent work on Tyler which emphasizes the social history of the Tyler and Gardiner families.<sup>2</sup>

This study of the first two years of Tyler's administration covers the most critical years of his life, and is an attempt to show his conflicts with Congress. Although Tyler had many faults as President, he cannot be totally blamed for the breakdown of the lawmaking processes. This study is an attempt to contribute more understanding through the use of detail and analysis to this inadequately researched period of history.

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<sup>1</sup>Oliver Perry Chitwood, John Tyler, Champion of the Old South (New York: D. Appleton-Century Co., 1939), 496 pages, cited hereinafter as Chitwood, John Tyler.

<sup>2</sup>Robert Seager, II, And Tyler Too (New York: McGraw-Hill, 1963), 681 pages.

There are many individuals who have contributed to this project. I gratefully acknowledge the assistance of Dr. Homer L. Knight and Dr. Norbert R. Mahnken, the members of my thesis committee, and special gratitude is expressed to Dr. LeRoy H. Fischer, my chief thesis adviser. Dr. Fischer's knowledge of history, research method, and his guidance have been invaluable in the preparation of this thesis. Most of all I am indebted to my wife, Florence D. Moudy, who took our two small children on an extended vacation so that I could have uninterrupted time in which to write this thesis.



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## CHAPTER I

### THE RISE OF THE WHIGS

History has an odd way of softening the animosities created by vigorous Presidents who usually run afoul of one of the other branches of government while they are in office. When historians look back to judge, they generally show a decided preference for the imaginative, bold, and vigorous men who have held that high office. Every President of the United States, with the exception of William Henry Harrison, who lived only a month after he was inaugurated, has been denounced as a despot, a tyrant, a dictator, or a man who was using the power of his office to further his personal ends.<sup>1</sup> Demunciation spared Harrison by death was heaped in full measure upon his successor, John Tyler. Tyler had been in office less than half a year before he found his political reputation ruined by partisan politics, his association with his party dissolved, and his name the object of vilification throughout the country. Oddly enough, Tyler had fallen from grace because he chose to use the powers of office with vigor and sometimes with boldness. Those traits which made others great had the opposite effect upon him.

Under George Washington the Federalists put into practice the theory of vigorous executive leadership of Congress. When Alexander Hamilton passed from the scene the executive leadership of Congress faded, so that when Thomas Jefferson assumed the Presidency a new relationship between

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<sup>1</sup>Louis Brownlow, The President and the Presidency (Chicago: Public Administration Service, 1947), pp. 17-18.

President and Congress had to be established. Jefferson proved to be clever and able in guiding Congress by party manipulation and direct personal contact with his friends strategically placed in both Houses. No such skilled manipulator followed him until 1828, when Andrew Jackson was elected. For twenty years before Jackson, the executive was reduced to impotence and Congress reigned supreme. The eclipse of the Presidency in the shadow of a dominant Congress came to an abrupt end under Jackson. He controlled the executive departments with a firm hand and resorted to vigorous and previously unknown use of the veto. So vigorous was Jackson's assumption of leadership, that dismayed Congressmen censured the President for his usurpation of power. Jackson retaliated with a successful campaign which expunged the censure from the Journal of the Senate.<sup>2</sup> It is one of the ironies of history that Tyler, then Senator from Virginia, refused to vote for the expunging resolution when directed to do so by the Virginia General Assembly. Instead he resigned his seat rather than participate in what he considered an unconstitutional triumph of the President over the Senate.<sup>3</sup>

The anti-Jackson opposition in Congress and in the country assumed the nickname "Whig" in symbolic defiance of what they called the monarchial despotism of Jackson. In opposing executive dominance over Congress, the Whigs prided themselves in preaching the dogma that they were true disciples of Jeffersonian Republicanism. Inconsistent as it may seem, no Whigs were more emphatic than the old National Republicans in championing

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<sup>2</sup>U.S., Register of Debates, 23rd Cong., 2nd Sess., X, Part 1, p. 60.

<sup>3</sup>Lyon Gardiner Tyler, The Letters and Times of the Tylers (3 vols., Richmond: Whittet and Shepperson, 1885), I, p. 536, cited hereinafter as Tyler, Letters and Times. One of the best discussions of the early development of the Presidency is in Wilfred E. Binkley, President and Congress (New York: A.A. Knopf, 1947), Chaps. II-IV.

Congressional supremacy. The deep divisions between the Whigs and the Jacksonian Democrats over the Presidency did not occur in a vacuum. The great domestic issues of the day -- the question of protective tariffs, internal improvements, the banking and monetary system, and the disposal of public lands -- furnished fuel for the constitutional debates over the shift of power from Congress to the President. But on these issues the Whigs were themselves divided. They needed only to elect their first President in order to prove the looseness of their party ties.<sup>4</sup>

The formation of the Whig Party was one of the most important events in the career of Tyler, for to it he owed his elevation to the Presidency. And yet his mind was in all probability disturbed with strong misgivings when he joined hands with the National Republicans of the North. For not only did he abhor the principles advocated by them, but he also distrusted some of their outstanding leaders. Of these leaders, Daniel Webster was particularly offensive to him. Webster's nomination for the Presidency by the Whigs, he thought, would be a great blunder, for it would revive the tariff and the question of slavery in the District of Columbia.<sup>5</sup>

The coalition of groups and men known as the Whig Party first tried out its national strength in the Presidential campaign of 1836. With so many diverse elements, agreement as to a platform or even a candidate was not possible and so no national convention was held. The strongest faction in the coalition was the National Republican element, and in the main it endorsed William Henry Harrison. In Massachusetts, however, the National

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<sup>4</sup>Eber Malcolm Carroll, Origins of the Whig Party (Ann Arbor: University of Michigan Press, 1922), pp. 122-128.

<sup>5</sup>Tyler to W.F. Gordon, November 9, 1834, in Tyler, Letters and Times, I, p. 293.

Republicans supported Webster, and he received the vote of that state.

The states' rights Whigs of the South, except the nullifiers of South Carolina, supported as their candidate Judge Hugh L. White of Tennessee, who was "a strict constructionist of the purest type."<sup>6</sup> Tyler was the favored candidate in the South for the Vice-Presidency, though little interest was taken in this phase of the campaign. Of all the endorsements received, the one given Tyler by the Old Dominion was doubtless the most gratifying. White and Tyler made good running mates, for the latter had come out for the former as early as May, 1835.<sup>7</sup> The nullifiers of South Carolina, the West and most of the Northern Whigs favored a ticket of Harrison and Tyler.<sup>8</sup>

The Democrats in 1836 nominated Martin Van Buren for the Presidency and Colonel Richard M. Johnson for the Vice-Presidency. The Whigs did not expect that any one of their candidates would receive a majority in the Electoral College, but they hoped that enough votes would be drawn from Van Buren to prevent his receiving a majority. The election would then be thrown into the House, where a Whig might have a chance to be chosen.

Van Buren was elected President. But Tyler received forty-seven electoral votes, having carried the states of Maryland, South Carolina, Tennessee, and Georgia. He was thus third in the race for the Office of Vice-President. Johnson received a plurality but not a majority of the electoral votes. The Senate was, therefore, called upon to make a choice

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<sup>6</sup>Arthur Charles Cole, A Whig Party in the South (Washington: American Historical Association, 1913), pp. 41-43.

<sup>7</sup>W. Crump to Tyler, February 14, 1836, in Tyler, Letters and Times, I, p. 517.

<sup>8</sup>Ibid., p. 520.

between Johnson and Francis Granger, his closest competitor. Johnson was chosen on the first ballot.<sup>9</sup>

The Whigs saw 1840 as a banner year. The Van Buren administration had failed miserably to solve the nation's economic problems and could come up with nothing more inspiring than the Independent Treasury plan to counter the economic crisis. The Whigs had made sharp gains in the South in the elections of 1838. In the North conservative Democrats, convinced that the Democracy had been captured by a radical element, were willing to cooperate with the Whigs on most matters of fiscal and economic policy. The Van Buren administration did little to earn the alliance of the unemployed workingmen, and it certainly had no solution to the problem. Indeed, Van Buren, in his annual message of December, 1837, criticized those who were "prone to expect too much from Government."<sup>10</sup> Nor did the Whigs of 1840 have any idea how to produce "two dollars a day and roast beef" either. But they were out and Van Buren was in, and the slogan was cogent.<sup>11</sup>

A long fight in the Virginia legislature in 1839 and 1840 aroused a bitterness of feeling toward Tyler which weakened his hold on the Whig Party in the Old Dominion. The Virginia Whigs denied him the privilege of representing them at the convention held at Harrisburg in December,

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<sup>9</sup> Thomas Hart Benton, Thirty Years View (2 vols., New York: D. Appleton and Co., 1858), I, p. 683.

<sup>10</sup> James D. Richardson, ed., The Messages and Papers of the Presidents (20 vols., New York: Bureau of National Literature, 1904), III, p. 390, cited hereinafter as Richardson, ed., Messages and Papers.

<sup>11</sup> Arthur M. Schlesinger, Jr., The Age of Jackson (Boston: Little Brown and Co., 1945), pp. 217-226. The slogan "Matty's policy: fifty cents a day and French soup -- Our policy: Two dollars a day and roast beef" was a Whig campaign slogan of unemployed Northern workingmen in 1838 and 1840.

1839.<sup>12</sup> This national convention, however, honored him by conferring upon him one of the thirteen permanent vice-presidencies.<sup>13</sup> The convention adopted a plan whereby a general committee, composed of representatives from each state delegation, chose the candidate for President and Vice-President. After the general committee had made a selection, it was ratified by the convention as a whole.<sup>14</sup>

The general committee entered upon its work with a deep sense of the important task at hand, for they knew that victory or defeat for the Whigs at the polls depended upon their standard bearer. The leading candidates, Henry Clay, Winfield Scott, and William Henry Harrison, were represented on the committee. Clay, perhaps the ablest of the three, had taken such a positive stand on some public questions about which Whigs were in marked disagreement that it would be difficult to rally the diverse elements behind him. Strange as it may seem, a majority of Southern delegates supported Clay despite his record in support of a nationalistic policy. They regarded him as the "Great Pacificator" since his championship of the Compromise Tariff of 1833.<sup>15</sup> For this and other reasons Tyler, Hugh L. White, Henry A. Wise and James Barbour, all Virginians, felt justified in supporting him for the Presidency in 1840. Unfortunately for Clay, there were in line two military heroes - General Scott and General Harrison. Both were of the War of 1812 fame, and Harrison had won the sobriquet of "Tippecanoe" by having led in a battle with the Indians at a place by that name. Scott's public career had been confined

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<sup>12</sup>Henry Alexander Wise, Seven Decades of the Union (Philadelphia: J.B. Lippincott and Co., 1871), pp. 157-161, cited hereinafter as Wise, Seven Decades.

<sup>13</sup>Chitwood, John Tyler, p. 164.

<sup>14</sup>Ibid., p. 165.

<sup>15</sup>Tyler, Letters and Times, II, p. 334.



to military affairs and Harrison's record as a Congressman and territorial governor had been an inconspicuous one. Clay would have won the nomination had it not been for Thurlow Weed of New York, who felt that Clay could not carry New York and Pennsylvania at the polls. Weed at first supported Scott, but finally threw the entire New York delegation to Harrison, who received the nomination.

The general committee met again to select a running mate for General Harrison. The first vote cast for Tyler was that of H.W. Hilliard, a delegate from Alabama. On every ballot from the beginning he voted for Clay and Tyler. Hilliard had made the journey from Washington to Harrisburg in company with Tyler, and his steady support was probably due to the good impression made on the young Alabaman by the pleasing personality of the Virginia statesman.<sup>16</sup> It had been unanimously agreed that in the event Clay were selected to head the ticket, a Vice-Presidential candidate from a free state would be selected; whereas, if Scott or Harrison were selected, the second place would go to a candidate from a slave-holding state. In the latter event, Tyler would be the logical man since he was a strong states' rights man and his support of Clay would influence Clay supporters. His nomination would be a recognition of the Southern element and a peace offering. The Massachusetts delegation, after some vacillating between Tyler and Benjamin W. Leigh of Virginia, nominated Tyler and other delegations, except that of Virginia, which abstained from voting, changed their vote to Tyler. Thus Tyler was chosen with the vote of every delegation except that of his home state of Virginia. Tyler was very much in disfavor with the Virginia Whigs at this

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<sup>16</sup>H.W. Hilliard, Politics and Pen Pictures at Home and Abroad (New York: G.P. Putnam's Sons, 1882), p. 4, cited hereinafter as Hilliard, Politics and Pen Pictures.



time. John Minor Botts afterwards said that at the time of his nomination Tyler could not have been elected in Virginia to the lowest county office.<sup>17</sup>

In the election campaign of 1840 the Whigs avoided discussion of the domestic issues of the day, but devoted their energies to damning twelve years of executive usurpation under Jackson and Van Buren. Over-shadowing any serious discussion was the nonsense and humbuggery of the "log cabin and hard cider" campaign. "Tippecanoe and Tyler, too!" shouted conservative Whig statesmen from the factories of New England to the sugar plantations of Louisiana. It was a great slogan. "There was rhyme but no reason in it," said Phillip Hone.<sup>18</sup> Hone's remark sums up the history of the Whig "Log Cabin and Hard Cider" campaign of 1840. Never before in the United States, and seldom since, has a major political party taken such cynical advantage of the political naivete of the population.

The Whig strategy was to keep Harrison vague and Tyler quiet while party managers whipped up enthusiasm for their candidates in a carnival-like atmosphere of torchlight parades, slogans, catchy campaign songs, and semi-drunken campaign rallies. Keeping Harrison vague was no problem at all. Vague on the bank, fuzzy on slavery, contradictory on the tariff and on internal improvements, Harrison said he favored "sound Democratic Doctrines, upon which the administrations of Jefferson and Madison were

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<sup>17</sup>Niles' National Register, LXI, p. 79.

<sup>18</sup>Allan Nevins, ed., The Diary of Phillip Hone (New York: Dodd, Mead and Co., 1936), p. 553, cited hereinafter as Nevins, ed., Phillip Hone. Hone, a New York politician and friend of Clay, failed to receive an appointive office from Tyler. This probably influenced his opinion of Tyler.

conducted," whatever that meant.<sup>19</sup> He condemned the executive veto power, promised that as President he would initiate no legislation, declared that he would serve one term only, and maintained that corruption in government was really a very bad thing. Keeping Tyler silent was not much more difficult than keeping Harrison vague. The carnival approach so embarrassed Tyler that he made an honorable effort to detach himself from it. He preferred not to campaign, made only one speaking tour, and turned down many invitations to speak. When the Pittsburgh Democrats asked him point-blank whether he could sanction the incorporation of a third United States bank, he answered that he had always thought the bank was unconstitutional and that he could not sanction one without a constitutional amendment permitting it.<sup>20</sup> This reply was sent to Wise before it was released and Whig members of Congress decided that it would be impolitic to publish it. So confused were the Whigs on the bank issue of 1840 that when the question came up again in 1841 they could not decide whether it had been an election issue, or if it had been, just where the Whig Party had taken its stand.<sup>21</sup>

The Democratic campaign, led by Van Buren and Johnson, never got off the ground. The Democracy was constantly on the defensive in 1840. Still consorting openly with his mulatto paramour, Johnson did not stir many souls in the Southern Democracy. Democrats were no match for Whig fight songs and carnival-like campaign tactics. They were utterly frustrated in their efforts to point out the fact that Whiggery was a more confused

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<sup>19</sup>Freeman Cleaves, Old Tippecanoe: William Henry Harrison and his Times (New York: Charles Scribner's Sons, 1939), pp. 312-313, cited hereinafter as Cleaves, Old Tippecanoe.

<sup>20</sup>Tyler, Letters and Times, I, p. 620.

<sup>21</sup>Ibid., II, p. 521.

state of mind than a political party. There were many issues, but neither party took a definite stand on anything.<sup>22</sup>

When the ballots were counted, Van Buren was a defeated man. He carried only seven of the twenty-six states. In popular votes, however, he trailed Harrison by only 150,000 of the 2,400,000 cast. He polled more votes in defeat than he polled in victory in 1836. Ironically, Harrison and Tyler, both born in Charles City County, Virginia, failed to carry their native state. Van Buren also lost his native New York.<sup>23</sup>

On a cold, brisk Inauguration Day some fifty thousand excited and cheering citizens jammed the frozen streets as the venerable General rode "Old Whitey" up Pennsylvania Avenue to the Capitol.<sup>24</sup> Hat in hand, without overcoat or gloves, the Old Hero of Tippecanoe waved and bowed to the crowd. As the attention of the throng focused on the General's triumphal progress to Capitol Hill, Tyler made his unnoticed way quietly from Brown's Hotel to the Senate chambers. There, shortly after the noon hour, he was sworn in as Vice-President of the United States. His speech lasted barely five minutes. It was a standard Tyler appeal for states' rights. Uninspired and largely unheard, it was not one of the articulate Virginian's better performances.<sup>25</sup>

The Vice-President's speech was followed by a short pause, after

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<sup>22</sup>Robert Gray Gunderson, The Log Cabin Campaign (Lexington: University of Kentucky Press, 1957), pp. 78-83.

<sup>23</sup>Eugene H. Roseboom, A History of Presidential Elections (New York: The Macmillan Co., 1957), p. 122.

<sup>24</sup>The weather on March 4, 1841, has been reported differently by various historians, but most scholars attribute Harrison's pneumonia to his exposure to the weather on inauguration day. Chitwood, John Tyler, p. 200; Cleaves, Old Tippecanoe, p. 336; Gunderson, The Log Cabin Campaign, p. 226.

<sup>25</sup>Benton, Thirty Years View, II, p. 209.

which General Harrison entered and was conducted to the seat prepared for him. A procession was formed which escorted the President-elect to the eastern portico of the Capitol. Here he delivered his inaugural address and took the oath of office as President of the United States. After the inaugural ceremonies were over, the Senate reassembled with Vice-President Tyler in the chair. Nominations for cabinet positions were received from President Harrison and all were unanimously confirmed.<sup>26</sup>

Thus Harrison, aged and frail, was swept into office with the Virginia states' rights Whig, Tyler, who was safely embalmed in the Vice-Presidency where his peculiar anti-nationalistic ideas could not be expected to cause trouble. In his Inaugural Address, Harrison echoed cardinal Whig principles, including this: "it is preposterous to suppose that . . . the President . . . could better understand the wishes . . . of the people than their own immediate representatives."<sup>27</sup>

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<sup>26</sup>Ibid.

<sup>27</sup>Richardson, ed., Messages and Papers, IV, p. 10.

## CHAPTER II

### A PRESIDENT BY ACCIDENT

During the campaign the Whig newspapers had a great deal to say about General Harrison's good health and robust constitution. His powers of endurance were doubtless overestimated and were probably not equal to the demands made on his vitality by the new responsibilities. His routine of living was disturbed by social dissipation and his peace of mind upset by the importunities of hungry office seekers. When he was attacked by pneumonia on March 24 he was unable to put up effective resistance to the disease and succumbed to it on April 4, only one month after his succession.<sup>1</sup> In the delirium of his last hours he addressed his physician, whom he probably took for his successor, in these words: "Sir, I wish you to understand the true principles of the Government. I wish them carried out. I ask nothing more."<sup>2</sup>

Thus Tyler became the first Vice-President of the United States to succeed to the Presidency in order to complete the unexpired term of the President. Harrison's death created something of a constitutional crisis in its time even though the issue it raised inflames few tempers today. For much of the time prior to 1841 the Vice-Presidency had been a comfortable way in which to honor some of the country's more able politicians. Such was the case with Tyler. So obscure did the office become after

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<sup>1</sup>Chitwood, John Tyler, p. 201.

<sup>2</sup>Tyler to Clay, April 30, 1841, in Tyler, Letters and Times, II, p. 32.

ratification of the Twelfth Amendment, that under the Virginia dynasty the Secretary of State was in virtual succession to the Presidency. The elder Adams is said to have chafed in the office, Jefferson supposedly considered it an innocuous post, and Calhoun was described as scheming his intrigue while presiding over the Senate with dignity and poise.<sup>3</sup> Even the venerated framers were at a loss to discuss the office with their usual eloquence. As one of the signers observed, "such an office as Vice-President was not wanted. He was introduced merely for the sake of a valuable mode of election, which required two to be chosen at the same time."<sup>4</sup>

Vice-President Tyler, who was at his home in Virginia, had known that the President was ill. Congress was not in session. The fact that immediate communication could not be had with the Vice-President made the situation as embarrassing as it was sad. The office of the Chief-Executive of the United States was vacant, and in unusual circumstances, according to the Constitution, someone must administer the functions of that office without delay. The circumstances at hand warranted haste. Realizing the urgency of the situation, Secretary of State Webster was equal to the occasion, and he hastily called a meeting of the cabinet to discuss the problem. A decision was soon reached that an official notification to the nation concerning the death of the President should be drafted and published, and a message immediately dispatched to the Vice-President. In this manner the people of the United States were notified

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<sup>3</sup>Edward Samuel Corwin, The Presidential Office and Powers, 1787-1957 (New York: New York University Press, 1957), pp. 73, 408, cited herein after as Corwin, Presidential Office; Margaret Coit, John C. Calhoun, American Portrait (Boston: Houghton Mifflin, 1950), p. 160.

<sup>4</sup>Max Farrand, Records of the Federal Convention (3 vols., New Haven: Yale University Press, 1910), II, p. 537.

of Harrison's death and Fletcher Webster, Chief Clerk of the State Department and Secretary of State Webster's son, hurried off to notify the Vice-President.

Tyler was at his home, Sherwood Forest, in Williamsburg, Virginia, when young Webster delivered the news of Harrison's death in a message signed by the members of the cabinet and addressed to "John Tyler, Vice-President of the United States."<sup>5</sup> Nathan Sargent, one of the Whig chroniclers of the period claimed that the cabinet discussed the proper address to Tyler and concluded that "Mr. Tyler must, while performing the functions of President, bear the title of Vice-President, acting President."<sup>6</sup> Such a view was in keeping with the extreme Whig theory of a limited Chief-Executive -- one who was not even to be independent of the judgment of his cabinet. Tyler hastened at once to the Capitol at Washington, where on April 6, 1841, he took the oath swearing that he would faithfully execute the duties of the office of the President. After the ceremony, Judge William Cranch, who administered the oath, issued a sworn statement which has always raised some questions about Tyler's motives and intentions. Cranch said that Tyler had appeared before him and although the Vice-President thought himself qualified to perform the duties and to exercise the powers and office of President without an oath other than that which he took as Vice-President, yet, "as doubts may arise, and for greater caution, [Tyler] took and subscribed the . . . oath before me."<sup>7</sup>

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<sup>5</sup>Richardson, ed., Messages and Papers, IV, pp. 21-22.

<sup>6</sup>Nathan Sargent, Public Men and Events (2 vols., Philadelphia: J.B. Lippincott and Co., 1875), II, p. 122, cited hereinafter as Sargent, Public Men.

<sup>7</sup>Richardson, ed., Messages and Papers, IV, p. 31.



Tyler's decision to take the oath, apparently arrived at after hesitation and doubt on his part, established a constitutional usage of the first importance. As he said in an inaugural address issued to the country three days later: "This . . . occurrence has subjected the wisdom and sufficiency of our institutions to a new test. For the first time in our history the person elected to the Vice-Presidency of the United States . . . has had devolved upon him the Presidential office."<sup>8</sup>

More than mere niceties of language were involved in this matter. There were several questions. Does the Vice-President merely act as President upon the death of the President, or does the Vice-President vacate the office to which he was elected and become the President? Had Tyler decided he was the Vice-President acting as President, undoubtedly the oath he had already taken as Vice-President was sufficient. On the other hand, once he decided to become President, it would appear from a reading of the Constitution that he should legally subscribe to the oath provided especially for the President. The Constitution provides that "Before he enter on the execution of his office, he shall take the following Oath or Affirmation."<sup>9</sup> The act of taking the oath marks the President's first official duty in office.<sup>10</sup> The doubts that may arise, as Judge Cranch said, would have been well founded if Tyler laid claim to the Presidential office without ever taking the oath. The greater caution appears to have been the mark of prudence and necessity.

As Harrison was the first President to die in office, there was no precedent to indicate whether the Vice-President should be accorded all

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<sup>8</sup>Ibid., p. 37.

<sup>9</sup>U.S., Constitution of the United States, Art. II, Sec. 1.

<sup>10</sup>Corwin, Presidential Office, p. 72.



the power and dignity of a regular Chief-Executive or be regarded only as an acting Chief-Executive. The Constitution provides that "In case of Removal of the President from Office, or of his death . . . or Inability to discharge the Powers and Duties of the said office, the same shall devolve on the Vice-President."<sup>11</sup> Whether "the same" refers to the office or the duties is not clear from the text of the Constitution. Tyler, however, interpreted it to refer to the office and at once claimed all the rights and privileges of the Presidency. The precedent set by him has been followed in every subsequent case in which a Vice-President has succeeded to the office of President.

Tyler's interpretation of this clause in the Constitution was not accepted by all of the leaders of the Whigs or the Democrats. Prominent among the Whigs who regarded him as only Acting President was ex-President John Quincy Adams.<sup>12</sup> Some of the newspapers also took the same position. However, the National Intelligencer, the leading Whig paper of Washington, argued against the attempt to deprive the incumbent of any of the powers and privileges of the Presidency.<sup>13</sup>

When Congress met in special session on May 31, 1841, the question was raised in the House of Representatives by John McKeon of New York as to whether Tyler was entitled to the appellation "President of the United States." A resolution recognizing him as President had already been offered by Wise of Virginia. Tyler would claim, said he, that "he was by

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<sup>11</sup>U.S., Constitution, Art. II, Sec. 1.

<sup>12</sup>Charles Francis Adams, ed., Memoirs of John Quincy Adams (12 vols., Philadelphia: J.B. Lippincott and Co., 1876), X, p. 463, cited hereinafter as Adams, ed., Memoirs.

<sup>13</sup>National Intelligencer, April 15, 1841, in Niles' National Register, LX, p. 98.

the Constitution, by election and by act of God, President of the United States." Wise's resolution was passed without a division.<sup>14</sup> The question of Tyler's position and title was raised in the Senate on June 1, 1841. Robert J. Walker, a Democrat from Mississippi, ably contended that the office of President had devolved upon the former Vice-President and not merely the duties of the office. His speech was in opposition to a speech made the same day by William Allen of Ohio. Allen's measure provided that the Senate in its communication to the Chief Executive address him as "the Vice-President, on whom, by the death of the late President, the powers and duties of the office of President have devolved." This resolution was defeated by a vote of 8 yeas and 38 nays.<sup>15</sup>

The constitutional significance of Tyler's decision to take the Presidential oath seems to lie not so much in the legal realm as it does in the political aspects of the office. It would be difficult to see how there could be any important legal difference between the powers of a Vice-President who had become President and one merely exercising the powers and duties of the office, if such a distinction is possible. Tyler's whole course of conduct in the first few days after he arrived in the capital demonstrated plainly that he acted with conscious deliberation to establish himself as President in his own right and not as a mere caretaker for the departed Harrison. There is ample evidence to support the conclusion that he was aware of his unique position in history and that he anticipated a determined effort from within his own party to minimize the moral and political influence which made the American Presidency a remarkable institution for leadership. Tyler knew that if

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<sup>14</sup>U.S., Congressional Globe, 27th Cong., 1st sess., pp. 3-4.

<sup>15</sup>Ibid., p. 5.

he viewed his own administration as a mere regency he could not follow the independent course of action he had determined upon. He would be committed to Harrison's course of action, whatever that might be.<sup>16</sup>

Tyler's decision to assume both the dignity and powers of the Presidential office apparently stirred a considerable amount of discussion in the press, in fact, so much so that the editor of Niles' Register spoke up in protest:

May not the good people of this republic be spared from an idle controversy in regard to the appellation by which the person now at the head of its executive department shall be designated? The Richmond Enquirer took occasion conspicuously to style Mr. Tyler as the 'acting president.' The National Intelligencer insists that the Vice-President . . . succeeds to the appellation of, as well as the power and duties of 'President' of the United States. The New York Post takes the part with the Enquirer.<sup>17</sup>

The Pennsylvanian sided with the view that Tyler would act as President, and hastened to assure its readers that no special election would take place, since this would occur only if both the President and Vice-President had vacated their offices. It added the view that Tyler should take the Presidential oath since this constituted the inauguration of the President. He then could "communicate to his fellow citizens, by an address, the principles upon which he intends to administer the government."<sup>18</sup>

Ex-President Adams did not permit party loyalty to obscure his judgment of the matter. He noted in his diary on April 4, 1841, anticipating the later discussion of the problem, that "this event . . . makes

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<sup>16</sup>Tyler to William C. Rives, April 9, 1841, in Tyler, Letters and Times, II, p. 20.

<sup>17</sup>Niles' National Register, LX, p. 113.

<sup>18</sup>Ibid., p. 88.

the Vice-President . . . John Tyler . . . Acting President of the Union for four years less one month."<sup>19</sup> He added his unflattering personal judgment of Tyler as a man and as a statesman, a judgment which colored all his relations with the President for the remainder of their lives. Tyler, said Adams, was a "political sectarian" who was "principled against improvement," with talents "not above mediocrity."<sup>20</sup> On April 16, after public discussion of the problem had commenced, he confided to his diary: "I paid a visit this morning to Mr. Tyler, who styles himself President . . . and not Vice-President acting as President . . . He moved into the house [White House] two days ago."<sup>21</sup>

Before Tyler's succession to the Presidency became a closed public matter through Congressional confirmation, there occurred two events which strengthened the new President's viewpoint respecting the succession. As Adams indicated, the President moved into the White House on April 14, 1841. The White House, of course, is the residence of the President, although it could be the residence of an acting President. A scrupulously correct strict constructionist might, as Adams suggested, be reluctant to take such a step. In fact, a conscious unwillingness to take this step might well symbolize the position of a Vice-President who took the view that he had not become the President.

On April 24, 1841, the President met the diplomatic corps in the White House, where Alexander de Bodisco, the Russian minister, made a brief speech in which he said: "Mr. President . . . the Constitution has

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<sup>19</sup> Adams, ed., Memoirs, X, p. 456.

<sup>20</sup> Ibid., pp. 456-457.

<sup>21</sup> Ibid., pp. 463-464.

invested you with the chief magistracy of the Union."<sup>22</sup> The President's reply accepted this view and further expressed a hope for continued peaceful relations between this nation and the others of the world. Although it could be argued that the members of the diplomatic corps would have been unwise had they addressed the head of this nation in any other fashion, it still remains a fact that this act marked a further acceptance of the newly established usage.

Any present discussion of this particular succession problem seems to have been muted by usage, but the issue was clearly alive in April, 1841. Tyler was faced with a constitutional crisis of sorts which he had to resolve according to his own conscience. While he has been adversely criticized for his caution and doubts in making his decision, the fact of the matter is that he showed good judgment and courage in reaching his decision. He determined for the future the rule that an "accidental" President shall possess every vestige of power, right and influence enjoyed by one elected to the office.<sup>23</sup> The truth of the matter appears to be that the Constitution contains so many provisions on the subject which are either ambiguous or conflicting that the problem had to be decided within the spirit but outside the letter of the instrument. The Constitution, as Tyler must have realized, spoke no clear and unequivocal command. The institutional test caused by Harrison's death was a new one calculated to try the judgment of men.

The succession issue appears to have been closed with the vote of Congress so that even Adams referred to Tyler as "the President" in his

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<sup>22</sup>Niles' National Register, LX, p. 130.

<sup>23</sup>Herbert W. Horwill, The Usages of the American Constitution (London: Oxford University Press, 1925), p. 59.

Memoirs of June 25, 1841.<sup>24</sup> So deep, however, were the wounds later inflicted by Tyler on his political adversaries that their response was venomous. Tyler had become a President by choice and by his actions set a precedent which is followed to this day in like circumstances.

On April 9, 1841, President Tyler issued a statement to the American people which might be termed his Inaugural Address. It was of moderate length and rather indefinite in meaning. The language used was rather commonplace, and the style was not up to the standard of the best of his speeches in Congress. His position, however, was clearly defined on a few questions. He reviewed the unusual events which surrounded his succession to the highest office in the country, and promised to place in the patriotism of the people his safe and abiding reliance. The President beheld the storm clouds rising, for he made reference to the fact that the spirit of faction was opposed to the spirit of patriotism and that in such opposition an occasion might be found to attack his administration. Political rivalry, which was nervously maneuvering for position, was at large in the land, and it was of no use for the President to try to avoid a conflict.

The office holders who were under federal appointment had a great deal of uneasiness for fear of being removed by President Harrison's successor, but such fears were allayed when Tyler promised that no one would lose his position as long as he was honest and faithful in the administration of official duties. He favored strengthening the army and navy and the adoption of such measures as would render both "replete with efficiency."<sup>25</sup>

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<sup>24</sup>Adams, ed., Memoirs, X, p. 486.

<sup>25</sup>Richardson, ed., Messages and Papers, IV, pp. 36-39.



Tyler told the nation that the "usual opportunity which is afforded to a Chief Magistrate" to present the policy which will "guide his administration, in the form of an inaugural address" had been denied him and, therefore, "a brief exposition of the principles which will govern" him would seem to be due the people.<sup>26</sup> This step alone should have been a clear warning to the Whigs that Tyler did not intend to be a compliant servant of the party masters. Had Tyler intended merely to stand in the shadow of Harrison, it would have been inappropriate for him to address the nation with a statement of his own principles. Consciously and boldly Tyler unfurled his sail before the political winds that were soon to blow with hurricane force.

Many aspects of Tyler's inaugural address stood in direct contrast to Harrison's inflated address, often said to have been prepared with the approval of Clay and Webster.<sup>27</sup> Harrison admitted that disputes had occasionally arisen over the amount of power constitutionally granted to Congress, but he consoled his listeners with the assurance that "most of the instances of alleged departure from the letter or spirit of the Constitution have ultimately received sanction of a majority of the people."<sup>28</sup> With this obvious reference to the constitutionality of the Bank of the United States, he further averred that the real source of danger to the nation's liberties was the growth of executive power. He added his view

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<sup>26</sup>Ibid., p. 37.

<sup>27</sup>Dorothy B. Goebel, William Henry Harrison (Indianapolis: Historical Bureau of Indiana Library and Historical Department, 1926), p. 227; Robert J. Morgan, A Whig Embattled, the Presidency under John Tyler (Lincoln: University of Nebraska Press, 1954), p. 18, cited hereinafter as Morgan, Whig Embattled. For Harrison's Inaugural Address, see Richardson, ed., Messages and Papers, IV, pp. 5-21.

<sup>28</sup>Ibid., p. 7.

that the veto power, a seeming incongruity in our system, ought to be used only with the greatest forbearance. Modestly Harrison mortgaged his future by stating that he would set a proper example in declining a second term.

Tyler had no taste for such principles. After declaring a spirit of friendliness toward all nations, he comforted the Whigs by decrying the "union of purse and sword" in the hands of the President.<sup>29</sup> He took the vow of poverty where public spending was concerned. Moving closer to the heart of Whig dogma, he declared that "if any war has existed between the Government and the currency, it shall cease. Measures of a financial character now having the sanction of legal enactment shall be faithfully enforced until repealed by the legislative authorities."<sup>30</sup> He then made a somewhat enigmatic statement which cheered the Clay Whigs until it was later elaborated with his vetoes, and drove the advocates of rechartering the Bank of the United States into a frenzy of frustration. Tyler said:

I shall promptly give my sanction to any constitutional measures which originating in Congress, shall have for its objective the restoration of a sound circulating medium.... In deciding upon the adaption of any measure to the end proposed, as well as its conformity to the Constitution, I shall resort to the fathers of the great republican school for advice and instruction, to be drawn from their sage views of our system of government.<sup>31</sup>

Yet given the views of such republican fathers as Jefferson and Madison toward the Bank, the old National Republicans saw in this passage assurance that Tyler would not oppose their drive to recharter the Bank.

In contrast to Harrison's nationalist carelessness with constitutional

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<sup>29</sup>Ibid., p. 37.

<sup>30</sup>Ibid., p. 39.

<sup>31</sup>Ibid.



principles, Tyler added his long-standing view that:

Those who are charged with its [the Federal Government's] administration should carefully abstain from all attempts to enlarge the range of its powers thus granted to the several departments of the government other than by an appeal to the people for additional grants, lest by so doing they disturb the balance which the patriots and statesmen who framed the Constitution designed to establish between the Federal government and the states composing the Union....An opposite course could not fail to generate factions intent upon the gratification of the selfish ends, to give birth to local and sectional jealousies, and to ultimate either in breaking asunder the bonds of union or in building up a central system which would inevitably end in a bloody scepter and an iron crown.<sup>32</sup>

In this brief message Tyler stated his views which were uncomfortably independent of those expressed by Harrison and supported by the nationalist leaders of the Whig Party. Harrison advocated loose construction of the powers of Congress in obvious support of a revived Bank, but Tyler warned against disturbing the federal balance of powers without resorting to the amending process. Harrison condemned the Jacksonian use of the veto, but Tyler warned that he would give his approval only to financial measures acceptable to true Jeffersonian Republicans and, by inference, his veto to those which were not. Any opposite course, he admonished his party and the country, would only result in factional and sectional conflicts. Harrison decried the expansion of independent executive power, but Tyler did little more than disapprove the union of purse and sword and unchecked spoilsmanship. Harrison announced his unavailability for re-nomination to the Presidency, but Tyler remained silent on this issue. Harrison declaimed with the eloquence of a true Jeffersonian Republican against Presidential domination of Congress, the real representatives of the people, but on this issue Tyler said nothing. The polite approval with which Tyler's message was received by the Whigs belied the anxious

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<sup>32</sup>Ibid.

conferences of their leaders as they gathered in Washington for the special session of Congress called by Harrison to meet on May 31.

## CHAPTER III

### THE SPECIAL SESSION OF 1841 - THE FIRST BREAK

Tyler's hastily written inaugural address of April 9 was both an olive branch to the various Whig factions and a cautious trial balloon to test the general political atmosphere. Later, as his thoughts began to take substance and form, he decided to adopt a defensive posture with reference to any fiscal changes. He wrote that since he had no opportunity to talk to Harrison about the special session, the country could not expect a matured message from him. He would leave the fiscal problems up to Congress, with the reservation that he would veto any measure if such be necessary in his view of the subject.<sup>1</sup> He agreed that Van Buren's Independent Treasury should be repealed. This did not suggest to him that the old Bank of the United States should necessarily be re-established in its stead. "As to the Bank, I design to be perfectly frank with you," he told Clay, "I would not have it urged prematurely." If Clay insisted on pushing ahead with a new bank project, Tyler hoped he would so frame a bank as to avoid all constitutional objections. The President would submit nothing to Congress on this subject, but would leave Congress to its own action and would reserve his judgment by the character of the measure proposed.<sup>2</sup> That Clay could be trusted to devise a bank plan which avoided all constitutional objections was more than Tyler had a right to

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<sup>1</sup>Tyler to Nathaniel B. Tucker, April 25, 1841, in Tyler, Letters and Times, II, p. 32.

<sup>2</sup>Tyler to Clay, April 30, 1841, in *ibid.*, III, pp. 93-94.

expect. The Great Compromiser was not that great and he was in no mood for compromise. Nor was he blind. He saw at once that Tyler was willing to surrender much of his executive power to Congress on this crucial financial question, retaining only the negative power of veto.

Tyler's excessive caution in the opening weeks of his administration, and his unwillingness to agitate the factional situation in an unprecedented transition of power added up to the creation of a political vacuum into which the ambitious Clay walked boldly. The Kentuckian was already convinced that Tyler's administration would be little more than a "regency," and that serious objection to the constitutionality of a national bank was "confined to the state of Virginia." To him the accidental President was but a "flash in the pan," to be neither feared nor followed.<sup>3</sup> Clay naturally thought that Tyler, a mild mannered Virginian with a soft exterior, would not have the temerity to strenuously oppose his policies. Tyler's tactful method in dealing with his colleagues sometimes left the impression that he did not have much backbone. Clay was one of those who mistook courtesy for weakness. He failed to understand that while the President was exceptionally pleasant in his relations with others, he was unyielding when his convictions were involved. He did not realize that a gloved hand may easily be changed into a clenched fist.

Tyler and Clay, despite the divergence of their views, were on the best of terms at the beginning of the administration. Thomas Ewing, one of Clay's friends in the cabinet, in writing to the Whig leader, said: "No man can be better disposed [toward you] than the President. . . . He speaks of you with utmost kindness and you may rely upon it his friendship

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<sup>3</sup>Clay to N.B. Tucker, April 25, 1841, in *ibid.*, II, p. 30.

is strong and unabated."<sup>4</sup> Circumstances soon subjected this friendship to a very severe strain. A constructive program lay ahead of them, and a deadlock between their principles could be avoided only by compromise. For the clash that resulted, Clay must come in for the chief blame. If he had been more conciliatory and self-effacing, important measures based on the principles of give and take could have been worked out. But Clay was arrogant and determined to have his way, and thus he let slip a great opportunity for achievement. Clay's ambition to be President was a serious handicap during the greater part of his career. His defeat at Harrisburg in 1839 had not caused him to give up hope of attaining the nomination in 1844. The accession of Tyler injected an element of uncertainty into Clay's plans, for if Tyler should make a good record and remain in the good graces of the party he would be the logical candidate in 1844. Such a danger could only be averted by Clay assuming leadership of the party and discrediting Tyler.<sup>5</sup>

Thus the political storm clouds hung over Washington when Congress met in special session on May 31, 1841, in response to a call issued by the departed Harrison. The Whigs had a comfortable majority of forty-nine in the House of Representatives and a safe though narrow margin of seven in the Senate.<sup>6</sup> While Clay controlled the bulk of the Whig vote in the lower House, there were in the Senate four or five states' rights Whigs to whom he could not dictate. He was confident that he could balance the defections of this group by garnering a few Democratic votes

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<sup>4</sup>Ibid., III, p. 102, note.

<sup>5</sup>Hilliard, Politics and Pen Pictures, p. 211; Wise, Seven Decades, p. 168.

<sup>6</sup>Niles' National Register, LX, p. 195.

from the North and West. As the special session opened, the Kentuckian was confident. He was convinced that he had the power and skill to unify the bulk of the Whig Party on a platform of a national bank and protective tariff. With this unification the creaky Whig organization would become stable enough to carry him into the White House in 1844.<sup>7</sup>

Congress was promptly organized on the first day of the session. The next day the President's message was received and read to the two bodies. Its style was clear and the general tone was prudent and dignified. The message began with a compliment to General Harrison by suggesting that Congress make some financial provisions for his family owing to the fact that his estate had been subjected to considerable expense by his removal to Washington. A sensible statement was made as to what would be his course in dealing with other powers. The conciliatory but firm attitude in this announcement of foreign policy was particularly happy in view of the fact that the relations of the United States with both England and Mexico were tense at the time.

The dangerous financial question was not sidestepped. He alluded to the fact that the estimated revenues for the current year would be less than the disbursements, and suggested that proper measures be adopted for meeting the deficit. In doing this, no change in the Compromise Tariff Act of 1833 would be made except under urgent necessities which he did not believe to exist at this time. He hoped that a permanent system of revenue, one imposing discriminating duties on imports for purposes of revenue, would be adopted. The creation of "a suitable fiscal agent" was recommended, one which would be "capable of adding increased

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<sup>7</sup>George Rawlings Poage, Henry Clay and the Whig Party (Chapel Hill: University of North Carolina Press, 1936), p. 43, cited hereinafter as Poage, Henry Clay; Chitwood, John Tyler, p. 217; Tyler, Letters and Times, II, p. 5; Morgan, Whig Embattled, pp. 39-40.

facilities in the collection and disbursement of public revenues." The establishment of a currency of uniform value depended upon such an agent.

The Subtreasury System was unsatisfactory, Tyler pointed out, and it was up to Congress to devise a better plan. The President would be ready to concur with Congress in the adoption of any such system as it might propose, reserving to himself the "ultimate power of rejection" for any measure which conflicted with the Constitution or otherwise jeopardized the prosperity of the country. But he expressed hope that he would not have to use the veto power.<sup>8</sup>

Tyler might have spared himself the trouble of discussing a proposed fiscal agent for the government, as scant attention was paid to his suggestions on that point by the Whigs who controlled both branches of Congress. This group looked to Clay as their leader, and he was not disposed to share his leadership with the President. Accordingly, he at once began to assert his authority in the Senate with little or no regard for the sensibilities of the titular head of the party. Clay's assumption of party leadership was publically made when early in the session he offered six resolutions as a plan of work for the session.<sup>9</sup> These resolutions provided for the repeal of the Independent Treasury Act, the establishment of a national bank, an increase in the import duties to provide adequate revenue for the government, the distribution of the proceeds from the sale of public lands, and other measures of minor importance. This program was strictly in accord with the principles of the nationalist wing of the Whig Party and revealed Clay's intentions to override the

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<sup>8</sup>Richardson, ed., Messages and Papers, IV, pp. 40-51.

<sup>9</sup>Congressional Globe, 27th Cong., 1st sess., p. 22; Niles' National Register, LX, p. 238.



scruples of President Tyler whom he chose to regard only as a sort of regent.<sup>10</sup>

In including a national bank on the agenda of the special session of Congress, Clay fully realized that it was unacceptable to the President. Clay was now announcing as a Whig program measures which he would not have dared to offer in the campaign of 1840 as a platform for the party. If the Whig leadership had taken such a stand, the party would in all probability have been defeated at the polls.

The long friendship which had existed between Clay and Tyler terminated at the opening of the extra session of Congress. Not until Clay intimated an interest in reviving the old Bank of the United States did Tyler set himself to the task of devising some plan which would lead to conciliation and harmony. What he devised to fill the vacuum in the administration into which Clay was moving was a plan for a bank in the District of Columbia with power to establish branches in states requesting branches. Here Tyler made a tactical blunder by coming up with a plan after his adversary had taken the field, for had Tyler's District bank plan been vigorously sponsored in the first weeks of his administration, the possibilities of adoption would have been enhanced. Tyler's District bank would have had no more effect on the economy than a new Bank of the United States. In addition to its harmlessness, it was constitutionally acceptable to Southern Whigs.<sup>11</sup> To Clay, threatened with the loss of the initiative in policy making, Tyler's District bank proposal was a red flag. In a stormy interview in the President's office, Clay made it clear

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<sup>10</sup> Clay to Judge Tucker, April 15, 1841, in Tyler, Letters and Times, I, p. 30.

<sup>11</sup> Wise to Leslie Coombs, December 29, 1842, in *ibid.*, II, pp. 15-17.



that the Whigs could not accept a bank plan so hedged with states' rights qualifications. Tyler's patience snapped and he is reported to have said to Clay: "Go you now . . . to your end of the Capital, and . . . perform your duty . . . as you shall think proper. I shall do mine at this end as I shall think proper."<sup>12</sup>

The Whigs in Congress showed a willingness to follow Clay's leadership, and on June 8 a bill passed the Senate providing for a repeal of the Independent Treasury Act. After having been passed by the House, it was sent to Tyler for his approval.<sup>13</sup> As the President in speeches in the campaign and in his message to Congress had expressed disapproval of the Subtreasury system, he willingly signed the bill. The reversal of a major policy of the previous administration caused rejoicing among the Whigs in Washington. The ready acquiescence of Tyler in the first of Clay's measures did not indicate that the former had willingly abdicated party leadership to his brilliant rival. It only meant that so far their views were in unison. Conflict would arise when Tyler was asked to put his states' rights scruples aside and endorse the bank policy of the Senate leader.

With the support and encouragement of his entire cabinet, Tyler submitted his bank plan to Congress. Promptly taken up in the Senate by a select committee chaired by Clay, the administration's District bank bill was quickly mangled beyond recognition. The chief feature of the Clay committee's counterproposal, dated June 21, was that the assent of individual states not be required preceding the establishment of branch banks.

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<sup>12</sup>Tyler to Judge Tucker, July 28, 1841, in *ibid.*, p. 54; Tyler's statement in the Madisonian, April 23, 1841, in *ibid.*, pp. 68-69.

<sup>13</sup>Congressional Globe, 27th Cong., 1st sess., pp. 36, 313.

The District bank should be free to establish its branches where and when it wished, and this was synonymous with the national bank.<sup>14</sup>

Tyler could not accept the involuntary branching feature of Clay's revised District bank concept. He knew too that banking legislation as such was no longer the real issue anyway. Tyler felt that he was on trial and those who had all along opposed him would bring further offensive measures in the hopes of leaving him impotent and powerless. "Remember always that the power claimed by Mr. Clay and others," said Tyler, "is a power to create a corporation to operate per se over the Union. This from the first has been the contest." Tyler remained convinced that to depart from his District bank plan or "to propose a scheme on my own would be the height of folly since I have no party to sustain it on independent principles." He therefore looked to his cabinet to produce a new plan which would be constitutional.<sup>15</sup>

As Tyler began to search for an entirely different solution to the bank problem, Clay discovered that he lacked two votes in the Senate to enact the legislation incorporating his involuntary branching concept. To secure these votes he offered on July 27 a somewhat milder version of the District bank bill based on a compromise suggested by Whig Representative Botts of Virginia. Botts had been a strong anti-bank man and still claimed to be on intimate terms with the President although he had as early as June 2 accused the President of having surrendered himself to "backstairs influence."<sup>16</sup> He had, he thought, hit upon a formula which

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<sup>14</sup>Ibid., pp. 79-81; Niles' National Register, LX, pp. 237, 258-260.

<sup>15</sup>Tyler to John Rutherford (Confidential) June 23, 1841, in John Tyler Papers, II, 5949, Division of Manuscripts, Library of Congress, Washington, D.C. Cited hereinafter as Tyler Papers, Library of Congress.

<sup>16</sup>Niles' National Register, LXIV, p. 215.

would serve as a basis for agreement between Clay and the President. He hurried to the White House and, as he maintained, secured Tyler's assent to the plan. The President afterwards strongly denied that he had approved the proposal suggested by Botts. On the contrary, he had spurned it as "a contemptible subterfuge behind which he would not skulk."<sup>17</sup>

Endorsed by a Whig Congressional caucus, the Botts compromise called for a District bank which could establish its branches only with the assent of the individual states. But such assent would be presumed automatically given unless the legislature of each state, during its first session following the passage of the bill, specifically expressed opposition to having a District bank branch within its borders. Once they were established, however, the branches could be expelled by the states only with the consent of Congress. On July 28 the Senate passed the bill 26 to 23 and sent it to the House. The lower chamber approved the measure on August 6 by a vote of 131 to 100.<sup>18</sup>

The Botts compromise went far toward meeting Tyler's states' rights objections. Hindsight suggests that he should have accepted and signed the measure then and there and been rid of the problem. But in the private conversation with Botts before passage of the amendment, Tyler had berated the compromise feature and thereby committed himself against the bill. This, it now seems clear, was a hasty and not carefully considered evaluation of the Botts proposal. As it stood, the measure was certainly no great threat to states' rights. States objecting to the establishment of District bank branches could prevent their establishment

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<sup>17</sup>Tyler, Letters and Times, II, pp. 56, note, and 66.

<sup>18</sup>Congressional Globe, 27th Cong., 1st sess., pp. 254-256.

without undue difficulty or inconvenience.<sup>19</sup>

Tyler felt the issue was now no longer a question of acceptable fiscal legislation, but had become a personal power struggle with Clay. The capital was rife with speculation as to whether or not Tyler would veto the Botts-Clay version of the District bank bill. Representative Thomas W. Gilmer of Virginia was confident the President would veto the bill. Gilmer was eager to see the Whig Party dissolve on the issue, for then there could be a general reorganization of its dissimilar factions along states' rights lines. On August 12 Robert Tyler, the President's secretary, told a New York Congressman in the lobby of the House that "to presume that my father can be gulled by such a humbug compromise as the bill contains is to suppose that he is an ass." The President's brother-in-law, Judge John B. Christian, had "no doubt he will veto it." On the other hand, Whig Representative A.H.H. Stuart of Virginia, saw the President the evening before the veto message was submitted and received from Tyler the impression that a "fair ground of compromise might yet be agreed upon." Tyler knew the consequences of a veto. Botts wrote him on August 10 that "if you can reconcile this bill to yourself, all is sunshine and calm: you . . . will be met with . . . a warm, hearty, zealous support of . . . the Whig Party, and when you retire . . . it will be with the thanks . . . and approbation of your countrymen."<sup>20</sup>

The announcement of the veto on August 16 triggered a political explosion of massive proportions. While the message was being read in the

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<sup>19</sup>Chitwood, John Tyler, pp. 223-224.

<sup>20</sup>Ibid., pp. 225-226; Tyler Papers, V, 175, 176, Library of Congress; Poage, Henry Clay, pp. 70-72; John B. Christian to Franklin Minor, August 7, 1841, in Tyler, Letters and Times, II, 406-409; A.H.H. Stuart's statement in *ibid.*, p. 78; Botts to Tyler, August 10, 1841, in *ibid.*, p. 105.

Senate, disorder broke out in the gallery. Democratic Senator Benton of Missouri demanded that the Sergeant-at-Arms arrest the pro-bank ruffians for insulting the President. In Democratic circles there was rejoicing. A group of Democratic senators, among them Benton, James Buchanan, and Calhoun, called at the White House on August 16 to congratulate Tyler on his "patriotic and courageous" action. That same evening a mob of Whig demonstrators gathered before the White House and raised such a clamor that it awakened the household. The mob then paid Tyler the supreme political compliment, for they burned him in effigy, an incident which led directly to the passage of legislation establishing a night police force in Washington.<sup>21</sup>

Against a background of these disorders, Clay rose in the Senate on August 18 to castigate Tyler. He demanded that Tyler accede to the will of the nation as expressed in the Congressional vote on the bank measure or do again as he had done in 1836 and resign his post. He then introduced a motion to override the veto. The veto was sustained by a vote of 25 to 24, which was well below the necessary two-thirds required to set aside a veto.<sup>22</sup> The following day, August 19, Clay demanded an amendment to the Constitution to permit the overriding of Presidential vetoes by simple majority vote. This too failed to pass. While these heavy-handed blows were being delivered on the Senate floor, Clay blandly maintained that there was no bad blood between the President and himself. Any rift

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<sup>21</sup>Carl Schurz, Life of Henry Clay (2 vols., New York: Houghton Mifflin, 1889), II, p. 207, cited hereinafter as Schurz, Henry Clay; Benton, Thirty Years View, II, pp. 328-330; Chitwood, John Tyler, pp. 228-229; Oscar Doane Lambert, Presidential Politics in the United States, 1841-1844 (Durham, N.C.: Duke University Press, 1936), p. 37, cited hereinafter as Lambert, Presidential Politics.

<sup>22</sup>Congressional Globe, 27th Cong., 1st sess., p. 352.

might seem to be developing among the Whig leadership he blamed on unnamed conspirators who were "beating up for recruits, and endeavoring to form a third party, with materials so scanty as to be wholly insufficient to compose a decent corporal's guard."<sup>23</sup>

Other Whig leaders were as extreme as Clay in their criticism of the President. He was accused of having violated pledges made in the campaign, and in so doing of having been guilty of party perfidy. Tyler expected the venom of Clay, but he was more disturbed by the August 21 publication of the "Coffee House Letter" written by his old political ally, Botts. It came at the very moment a second bank bill, the Fiscal Corporation bill, was being introduced into the House. The temper and the timing of the Botts letter convinced Tyler once and for all that all Whig fiscal proposals were designed to accomplish his political destruction. Addressed to the patrons of a coffee house in Richmond and dated August 16, Botts' communication was a savage attack on the President. It predicted that "Captain Tyler" would veto the District bank bill in an effort to curry favor with the Democrats. Insulting in both tone and content, it suggested that the President would be "headed" and would soon become "an object of excretion with both parties." Botts charged further that Tyler had "refused to listen to admonitions and entreaties of his best friends, and looked only to the whisperings of the ambitious and designing mischief makers who have collected around him." This was a reference to the same shadowy group Clay sarcastically designated a Corporal's Guard in his anti-Tyler tirade a few days later.<sup>24</sup>

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<sup>23</sup>Ibid., pp. 368-369; Poage, Henry Clay, pp. 75-78.

<sup>24</sup>The "Coffee House Letter" is in Tyler, Letters and Times, II, p. 112.



Tyler's motives were seriously questioned by his critics. It was charged that he wanted to succeed himself, and that by vetoing the bank bill he would hold the states' rights Whigs in line as well as attract to himself those Democrats who believed in states' rights. There is little doubt that Tyler wished to succeed himself. The most natural explanation for his action is that he was obeying the dictates of a states' rights conscience. In any case, the veto of the first bank bill greatly accentuated the split that had been gradually developing in the Whig ranks. Whether this breach would be healed or widened depended upon the concessions each side would make in the interest of conciliation.

Tyler's friends contended that the intention of the Whig majority in Congress to break with the President antedated the bank issue. George H. Profitt, a Representative from Indiana, who was a member of the "Corporal's Guard," said that "from the first meeting of Congress up to this hour, there has been a determination on the part of some gentlemen to create an issue with the President."<sup>25</sup> Credence is lent to this supposition by the fact that the bank Whigs showed dissatisfaction with Tyler almost from the beginning. As early as July 4 Clay expressed the fear that Tyler's heresies would endanger the existence of the Whig Party.<sup>26</sup> This suspicion of the President on the part of Clay's followers was sensed by Tyler and his friends. One of these, Representative Gilmer of Virginia, said in the House on July 27 that both he and the President had been condemned by the Whigs.<sup>27</sup>

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<sup>25</sup>Niles' National Register, LXI, p. 93. Henry Clay on occasion publicly referred to Tyler as the "Corporal" because Tyler's few supporters in Congress were often spoken of as the "Corporal's Guard."

<sup>26</sup>Calvin Colton, ed., The Speeches of Henry Clay (2 vols., New York: A.S. Barnes and Co., 1857), II, p. 454.

<sup>27</sup>Adams, ed., Memoirs, X, p. 515.



Whatever may have been their real purposes, the Whig leaders needed to appear willing to approach Tyler in the spirit of compromise. A new bank measure, the Fiscal Corporation bill, appeared a few days after Tyler's August 16 veto of the District bank bill. In his first message Tyler had suggested that certain changes in the bill might make similar legislation acceptable to him. Good politics demanded that the blame for the failure of the first bank measure be laid at the door of the President. Accordingly, an effort was at once made to adjust the differences between the President and Congress. A.H.H. Stuart, a Whig Representative from Virginia, was induced to see the President with the view to coming to an understanding with him. Tyler received him cordially and indicated that a plan of compromise might be agreed upon. An amendment to this bill had been proposed on July 13 by Senator Richard H. Bayard, and Stuart now offered this amendment with the clause stricken out which authorized the bank to change the agencies in the states into offices of discount and deposit. After two other changes had been made, Tyler accepted the plan and asked Stuart to go to Webster and have him prepare a bill in accordance with this agreement.<sup>28</sup> According to Stuart's statement, Tyler did not want to be accused of dictating to Congress. If Stuart could be instrumental in passing this bill through Congress, Tyler would esteem him the "best friend I have on earth."<sup>29</sup>

It was at this point that Tyler made a serious error in tactics. By showing on this occasion such enthusiasm for a bank and stating two days later in a cabinet meeting that a bank bill could be passed in forty-eight

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<sup>28</sup>For the text of the Bayard Amendment, with the modifications suggested by Tyler, see Chitwood, John Tyler, Appendix A, pp. 469-470.

<sup>29</sup>Benton, Thirty Years View, II, p. 344.

hours, he supplied his enemies with ammunition which they were not slow in using against him. It gave them the excuse for railroading the second bill through Congress on the ground that the President wanted quick action. And as the President's enthusiasm for a national bank soon afterwards began to wane, it afforded a seeming basis for the charge that either the President did not know his own mind or else his statement to Stuart was an attempt at deception.

After his interview with Tyler, Stuart drove to Webster's residence, but not finding him at home, he returned to his boardinghouse. That evening he reported the results of his conference to the joint committee, made up of eminent Whigs from both Houses of Congress. At the close of excited debate, the committee decided to recommend that the Whigs in Congress accede to the wishes of the President. This recommendation was afterwards accepted by the Whig caucus. John Sergeant of the House and John M. Berrien of the Senate were selected to frame a bill on the basis of the Ewing proposal or some other plan that would be acceptable to the President.<sup>30</sup> They were to seek an interview with Tyler, if necessary, to make certain that there was no misunderstanding of his opinions. Clay was scheduled to deliver his speech against the first veto on August 17. It was decided, in agreement with Clay, that his speech would be postponed until August 19 as it was anticipated that his comments might antagonize Tyler.<sup>31</sup>

These efforts at compromise would indicate that the Whigs were really desirous of meeting the President's wishes and of arriving at harmony in

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<sup>30</sup>The original Fiscal Corporation bill was the result of a proposal made by Secretary of the Treasury Ewing at the request of Congress.

<sup>31</sup>Benton, Thirty Years View, II, p. 347.

the party. That such was the sincere intention of a number of Whigs there can be no doubt. On the other hand, the continuous pounding of the President by the Whig press, the terrible pronouncement against him by Clay, and other abusive attacks on him in both houses of Congress, culminating in the insulting Coffee House Letter of Botts, tend to show that the dominant leaders were trying to widen rather than close the breach in the party. There is some evidence in support of the charge that they had decided to offer a second bank bill of such a character as to embarrass the President and cause the resignation of his cabinet.<sup>32</sup>

Sergeant and Berrien had two conferences with the President for the purpose of coming to an understanding with him on the bank question. Following the precedent of Madison, Tyler declined to discuss with them the details of any suggested plan. He did state a preference for a fiscal agency divested of the discounting power and limited to dealing in bills of exchange. He declared his determination to confer with the cabinet as to whether the assent of the states ought to be required in the establishment of agencies to be employed by the corporation.<sup>33</sup> After Tyler talked with his cabinet, Ewing was to work out details of a bill with Senator Berrien and Representative Sergeant. The three met in the lodgings of Berrien and there agreed upon the details of a measure which were in conformity with the views of the President as repeated by Ewing. From the sketch thus outlined, Sergeant prepared the Fiscal Corporation bill which he afterwards introduced into the House of Representatives.<sup>34</sup>

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<sup>32</sup>William Russell and John Taliaferro to Tyler (Confidential), August 16, 1841, in Tyler, Letters and Times, II, p. 81.

<sup>33</sup>Statement of Senator Berrien, in Niles' National Register, LXII, p. 245.

<sup>34</sup>Ibid.

Sergeant submitted his bill in the House on Friday, August 20, and the next day a printed copy of it was placed on the desk of each member. He also offered a resolution providing that the debate on the bill be closed not later than four o'clock that same afternoon. James I. Roosevelt of New York moved that all debate be stopped at once, as the short period allowed was the equivalent to shutting off debate entirely. Sergeant then changed his resolution so as to extend the time of discussion from Saturday to Monday afternoon. Several Democratic members asked to be excused from voting as they had not had time to examine the bill. The requests were refused, and the resolution was passed.<sup>35</sup> On Monday, August 23, after debate on the bill, it was reported to the Committee of the Whole and passed. The final vote was 125 to 94. The bill was reported to the Senate the following day and was promptly referred to a select committee by the President of the Senate.<sup>36</sup>

Berrien, chairman of the select committee, reported the House bill to the Senate without amendment on Monday, August 30, where it was taken up by the Committee of the Whole on Wednesday, September 1. Berrien spoke for more than two hours in favor of the new bill, saying that it would be accepted by the President. The measure was opposed by Rives and the leading Democratic Senators, such as Benjamin Tappan, Benton and Buchanan. The provision for bills of exchange, they maintained, would permit a discounting of promissory notes, a power which the President was unwilling to grant to a national bank without the assent of the states. Clay supported the bill though it did not go as far as he desired. He regarded it of some value, as it provided for the regulation of money

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<sup>35</sup>Congressional Globe, 27th Cong., 1st sess., pp. 366-368.

<sup>36</sup>Ibid., pp. 370-372; Benton, Thirty Years View, II, p. 337.

exchanges of the country and authorized a nation-wide supply of currency of uniform value. After several amendments proposed by Democratic leaders had been voted down, the bill passed the Senate on September 3 by a vote of 27 to 22.<sup>37</sup>

Given the political and emotional atmosphere of the time, Tyler's veto of the Fiscal Corporation bill on September 9 was not wholly unexpected. The bill was brought forth in so short a time after Tyler's first veto as to preclude careful preparation. Hasty consultation between Whig emissaries and the President brought forth a complex piece of legislation. The actual framing of the bill and the details of its submission and passage Tyler unwisely left to his cabinet. He did take the precaution of expressing to his cabinet his wishes in the framing of the bill, and he also insisted that he be shown its final wording before it was sent to the House.

By a failure in communication within the top echelons of the administration, the finished bill reached the House before Tyler saw it. This slight infuriated him and contributed to his developing notions that a full-blown Whig conspiracy was in operation against him. He was especially upset when Webster and Ewing of his cabinet stated publicly that the new bill conformed to the President's opinions and bore his approval. It was obvious that his suggestion that the bill clearly require state assent for establishment of bank branches had been ignored. Nor did the final form suit Tyler. In his opinion, the right of the states to prohibit branches was not adequately protected, and the powers given the Fiscal Corporation in the area of discounting and renewing notes was excessive in scope and inflationary in intent. More important, the Fiscal

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<sup>37</sup>Congressional Globe, 27th Cong., 1st sess., pp. 418-419.

Corporation would be chartered by Congress acting as a national assembly and not as a legislature of the District of Columbia. From Tyler's standpoint the new legislation, supposedly the brain child of his cabinet, was as unsatisfactory as the District bank bill had been.<sup>38</sup>

Although Tyler decided at once to veto the second bank bill, he kept it for six days before returning it with his objections. The general tone of the message indicated that he was very reluctant to withhold his assent from the measure. In thus dashing the hopes of the bank Whigs for a second time he was acting on what he considered an imperative sense of "constitutional duty." He was willing to go as far as his principles would permit toward conciliation, but the bill he held to be clearly unconstitutional. His strongest point was his opposition to establishing branches, or "agencies" as the bill called them, in the states without their assent. He expressed the hope that Congress would take no further action on a bank bill, and intimated that at the opening of the regular session he would have a proposal to offer.<sup>39</sup>

The conciliatory tone of the President's message did not cushion it against the blows that were hurled at it. As was expected, the second veto let loose a flood of criticism. On the day after the veto message was received in the House, Botts spent an hour castigating the President, accusing him of treachery to the Whig Party. He was answered by Gilmer, who "was not less personally severe on Botts, who resented it more in temper than in words."<sup>40</sup> Had the bill passed, it is likely that the bank would not have been successfully launched. The agitation of Democrats and

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<sup>38</sup>Tyler, Letters and Times, III, pp. 39-40; Poage, Henry Clay, pp. 83-84.

<sup>39</sup>For the text of this message see Richardson, ed., Messages and Papers, IV, pp. 68-72.

<sup>40</sup>Adams, ed., Memoirs, XI, p. 12.



their determination to kill a bank would doubtless have frightened off subscribers and prevented the sale of adequate shares of stock.<sup>41</sup> There did not seem to be at any time a strong popular demand for a national bank. The victory of the Whigs in 1840 could not be construed as a mandate from the people to establish a bank, for the Whig position was never made clear in the campaign. As Webster said in 1843: "Who cares anything now about bank bills which were vetoed in 1841. . . .or that, if there were no such thing as a veto . . . a Bank . . . upon the old models could be established?"<sup>42</sup> Nobody cared, for prosperity returned to the country.

On September 13, the day Congress adjourned, some fifty or more of the leading Whig members of Congress held a caucus and issued an address to the people of the United States. Declaring that the special session of Congress had been called to enact the Whig program which had been generally understood by the electorate in the campaign of 1840, the Whigs concluded that their President had proved himself treacherous by thwarting those aims. Tyler had, they said, used the veto power not to sustain his conscientious scruples, but rather to alter the existing party alignments. Since Tyler by his actions had voluntarily separated himself from the party, the alliance between the President and the Whigs was at an end.<sup>43</sup> His expulsion from the party was now formal and complete. Henceforth, Tyler was a President without a party. Not only was Tyler a President

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<sup>41</sup>Chitwood, John Tyler, pp. 248-249.

<sup>42</sup>Daniel Webster, The Writings and Speeches of Daniel Webster (National Edition, 18 vols., Boston: Little Brown, 1903), XV, p. 187, cited hereinafter as Webster, Writings and Speeches.

<sup>43</sup>Miles' National Register, LXI, pp. 35-36; George T. Curtis, Life of Daniel Webster (2 vols., New York: D. Appleton and Co., 1872), II, pp. 207-209.



without a party, but now he was without a cabinet, for in the political battles all the cabinet members had resigned except Webster.

## CHAPTER IV

### THE CABINET CRISIS

Tyler, like John Adams before and Andrew Johnson after him, inherited a ready-made cabinet. This circumstance was a handicap to the incoming President in all three instances. In each case the Chief Executive had as his official advisers men whose loyalty to someone else was stronger than that which they felt for their chief.

Harrison's cabinet consisted of Webster of Massachusetts, Secretary of State; Ewing of Ohio, Secretary of the Treasury; John Bell of Tennessee, Secretary of War; George C. Badger of North Carolina, Secretary of the Navy; John J. Crittenden of Kentucky, Attorney General; and Granger of New York, Postmaster General.

Normally, the President has a free hand in the selection of his cabinet, but Tyler, coming into the Presidency in an accidental manner, was faced with a cabinet which he must either keep or replace with men of his own choice. In succeeding to the Presidency with the cabinet already in existence, any decision regarding it was bound to have complications. The Whigs were not unmindful of the practice followed from Jefferson to Jackson whereby cabinet officers had frequently outlasted Presidents in their posts. It was at this time by no means an established rule that the members of the cabinet should always be men of the President's free choice. Nor was the President necessarily presumed to be free to consult with the members and accept or reject their advice on his own responsibility. Whigs were especially fond of referring to the cabinet as the President's

"constitutional advisers."<sup>1</sup>

There was some newspaper speculation to the effect that Tyler could not keep Harrison's cabinet without again commissioning the members. It was argued that since the members held their commissions at his pleasure, the President had a legal basis for making a completely free choice. Tyler claimed the Presidency in his own right and was not merely acting in the place of the departed Harrison; thus, he was presumed to have a measure of freedom which could not have been accorded a mere "acting" President. Contrary to this view, the extreme Whig position was that the members would not resign. "This [Cabinet members resignation] is the practice in monarchies," wrote the Pennsylvanian, "where ministers are the King's servants. In our republic they are the servants of the people, and commissioned by the consent of the Senate to offices created by law."<sup>2</sup> It may reasonably be concluded from this Whig view of the President's relations with the cabinet that he could remove members only with the consent of the Senate. It was noted editorially in the New York American that "when J.Q. Adams succeeded Mr. [James] Monroe, Mr. [John] McLean . . . Mr. [Samuel L.] Southard . . . and Mr. [William] Wirt retained their commissions without any new appointment or intermediate resignation."<sup>3</sup>

The theory and practices affecting the President's cabinet were not the same in 1841 as they were before or have been since that time. These matters have been settled by individual Presidents as a highly personal matter, with political considerations influencing their decisions. In

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<sup>1</sup>Corwin, Presidential Office, p. 378.

<sup>2</sup>Pennsylvanian, April 10, 1841, quoted in Niles' National Register, LX, p. 88.

<sup>3</sup>New York American, April 11, 1841, quoted in ibid.

reaching his decision to keep Harrison's cabinet, Tyler made one of his most serious mistakes. All the members of Harrison's cabinet, except Webster and Granger, were partisans of Clay. In the controversy that would inevitably follow between Tyler and Clay, should the latter endeavor to carry through Congress his nationalistic program, a majority of the President's cabinet would be allied with the opposition. Nor was he sure of the faithful support of Webster and Granger. Webster was the dean of the nationalists and in former times had been regarded by Tyler as the arch enemy of sound political doctrine.<sup>4</sup> As it turned out, Webster gave no trouble and cordial relations grew up between the premier and his chief, so that in later years Tyler regarded Webster as "the first among statesmen" and "the model of a cabinet officer."<sup>5</sup>

Apparently the members of the cabinet were not inclined to accord President Tyler the deference which his position gave him the right to expect. According to a story related afterwards by John Tyler, Jr., the President's private secretary, Webster at the first cabinet meeting held by Tyler expressed to the President the hope and expectation that he would carry out the ideas and customs of his predecessor. Webster then went on to state that under Harrison it had been the practice for all measures relating to the administration to be brought before the cabinet and be decided by majority vote, the President having but one vote. Tyler, amazed, arose and said, substantially, "I am very glad to have in my Cabinet such able statesmen as . . . yourselves. . . . I shall . . . avail myself of your counsel. . . but, I, as President, shall be responsible for my

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<sup>4</sup>Tyler Papers, I, 6283, Library of Congress.

<sup>5</sup>Tyler, Letters and Times, III, p. 197.

administration."<sup>6</sup> In this manner Tyler announced his intentions.

Under such circumstances only two alternatives were open to the President. He could dismiss Harrison's cabinet or he could accept it and lean heavily upon a group of friends, a "Kitchen Cabinet," for advice. In order to avoid a family row at the outset of his administration he decided to retain Harrison's cabinet and choose as his real advisers a small group of friends who were sympathetic to his states' rights views. For this unofficial cabinet he chose Dr. Thomas R. Dew, president of William and Mary College; Judge N. Beverly Tucker of Williamsburg; Representatives Wise, Gilmer, Francis Mallory, and Caleb Cushing; and Senator William C. Rives. Dr. Dew and Judge Tucker were the "eggheads" of the group, though they probably did not exert as much influence on the President as some of the others. Dew's duties at the College kept him at Williamsburg, and it was only during the special session of Congress in 1841 that he was in Washington. Judge Tucker's influence was limited to the early months of the term, for by September, 1841, he had cooled toward Tyler.<sup>7</sup> First in importance of these advisers was Wise. Tyler later said of him: "He is truly a most extraordinary man. I have known but one man more thoroughly at home upon all subjects and that is L.W. Tazewell."<sup>8</sup>

It is unfortunate when a President is forced to seek advice outside the legally ordained channels. Some Presidents have successfully employed a group of unofficial advisers, but few have been forced to rely on such a group as was Tyler. A liaison with an unofficial group generally

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<sup>6</sup>Binkley, President and Congress, pp. 92-93; Morgan, Whig Embattled, p. 59, notes.

<sup>7</sup>Tucker to Mrs. Tucker, September 13, 1841, in Tyler, Letters and Times, II, p. 544.

<sup>8</sup>Tyler to Robert Tyler, May 22, 1859, in *ibid.*, p. 550.

arouses jealousies within the official cabinet and within the party. This is particularly true when, as in this case, the unofficial advisers are not qualified by wisdom and experience for so great a responsibility. Tyler did not in the beginning have the benefit of the sanest counsel. Wise was unequal to the role of mentor to the President. He was brilliant but young, and his judgment lacked the stability that comes with years and experience. Too often he let emotion take the place of reason.

The new administration started out with every indication of harmony, but in a short time signs of discord began to appear. There was no actual friction until July, 1841, when the chief clerk in the land office dismissed thirteen of his assistants. Ten of the dismissed employees appealed to Tyler, who ordered their reinstatement. As Ewing, the Secretary of the Treasury, had approved the action of the chief clerk, hot words passed between the Secretary and the President. But this was not a serious quarrel, and the disagreement passed over.<sup>9</sup>

The immediate occasion of the disruption of the cabinet was the veto of the second bank bill by the President. The cabinet was in favor of a national bank, and all its members except Webster resigned in protest against the veto. In order that their resignations might weaken and embarrass Tyler, it was arranged that they should be made in unison and announced in a dramatic way. With the view to agreeing upon some plan of united action, Secretary Badger invited all the members of the cabinet to a dinner at his home on September 9. All were present except Granger. When Webster saw that it would be a meeting with Clay, who was also present, he left the Badger home. The others, in a meeting after the evening meal, decided to resign in a body and together make open war

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<sup>9</sup>Tyler to Dr. Dew, July 29, 1841, in *ibid.*, III, p. 133.

against the administration. Although Clay was a member of the dinner party, he did not attend the meeting at which the decision was made, but was talking to the family in another room of the Badger home. The fact that he was present in the house at the time lent support to the claim that the disruption of the cabinet was planned by Clay.<sup>10</sup>

Webster was urged to join them, Tyler maintained, "and it was declared to him that if he would resign, I would necessarily have to vacate the government by Saturday night, and thus Whig rule would be thoroughly re-established." Webster had too much sagacity not to see that what would happen would be the establishment of "Clay rule only, and nothing more."<sup>11</sup>

According to plan, all the members sent in their resignations on Saturday, September 11. John Tyler, Jr., was present when the letters came in and noted the exact time at which each arrived. The first arrived at 12:30 P.M. and the last at 5:30 P.M. In the afternoon Webster came in and asked the President what he should do. The President replied, "You must decide that for yourself, Mr. Webster." Whereupon Webster instantly said, "If you leave it to me, Mr. President, I will stay where I am." Tyler, rising from his seat, extended his hand to Webster and warmly declared, "Give me your hand on that, and now I will say to you that Henry Clay is a doomed man."<sup>12</sup>

All of the members who resigned, except Granger, sent letters giving reasons for their action. Granger, the political ally of Webster, had no

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<sup>10</sup> Poage, Henry Clay, p. 101; Webster, Writings and Speeches, X, p. 110.

<sup>11</sup> Tyler to A. Gardiner, May 6, 1845, in Tyler Papers, III, 6515, Library of Congress.

<sup>12</sup> John Tyler, Jr., to L.G. Tyler, January 29, 1883, in *ibid.*, II, 121.



serious grievance against the President, but resigned rather than separate from his friends in Congress and in the cabinet. In a conversation with Hone, he explained that his chief cause of dissatisfaction with the President was his refusal to turn Democrats out of office and put Whigs in their places. Some violent and active opponents of the administration, he said, had been retained because the President was endeavoring to win recruits from the opposition to the party which he was trying to form in his own interest. The letter of Crittenden was short, stating that he was not in accord with the President, especially with his veto policy, and he felt that he should resign.<sup>13</sup>

In other letters the retiring cabinet members expressed marked disagreement with Tyler's veto policy. The most violent of these attacks was made by Ewing. Not only did he flay the President for his attitude toward the second bank bill, but he charged that the Washington correspondent of the New York Herald, a Tyler newspaper, had been abusive of the cabinet and had betrayed a knowledge of cabinet secrets. This would indicate that there had been a leak, and it was intimated that Tyler was responsible for this leak.<sup>14</sup>

Whatever partisan advantage the Clay element of the Whig Party may have sought to gain through either the bank issue or the cabinet resignation, they did not accomplish their purpose. The President refused to be cowed. Clay had hoped that by forcing the cabinet to resign on Saturday before the Congress was to adjourn on Monday, Tyler would be unable to form a cabinet in time to have Senate confirmation. This would leave

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<sup>13</sup>Nevins, Phillip Hone, pp. 563-564.

<sup>14</sup>Ewing's statement is in Benton, Thirty Years View, II, p. 345; later statement on the same subject is quoted in Niles' National Register, LXII, pp. 244-246.

the President without a cabinet until the next regular session scheduled to meet in December, 1841, or would force the resignation of Tyler. In that event Samuel L. Southard, the president of the Senate, would succeed to the Presidency under laws then in force. But Tyler had thought about the rearrangement of his cabinet, and this mass resignation merely gave him the opportunity.<sup>15</sup> Indeed, negotiations had been under way for some time for the formation of a new cabinet, so that Tyler was able to submit to the Senate the names of the new heads of departments on Monday, September 13, the day Congress had set for adjournment. The nominations were immediately confirmed.<sup>16</sup>

Tyler's promptness in the selection of a new cabinet was due to an erroneous interpretation of the Constitution. Tyler claimed that he could make no cabinet appointments after the adjournment of the Senate and could not, therefore, carry on the business of government during the interim between sessions.<sup>17</sup> In such a case he would practically be forced to resign and permit the succession of the president pro tempore of the Senate. A special election would then have been held which might give Clay his chance for the Presidency.

In the selection of a new cabinet, Tyler called upon men "who were Jackson men in the beginning," but then broke with him and left the Democratic Party. They were men of ability and knowledge and conformed to

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<sup>15</sup>Mary Hinsdale, A History of the President's Cabinet (Ann Arbor; University of Michigan Press, 1911), pp. 112-113.

<sup>16</sup>Page, Henry Clay, p. 96.

<sup>17</sup>Tyler's construction is incorrect in that the Constitution states: "The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." Constitution, Art. II, Sec. 2, cl. 3. Tyler's vacancies occurred two days before Congress recessed.

Tyler's opinions "on the subject of a national bank."<sup>18</sup> Tyler was one President who relied heavily on the advice of his cabinet in the formulation of policy, once he had secured control of his official household and had established a measure of harmony between himself and his department heads. Abel P. Upshur, the Secretary of the Navy, and Hugh Legare, the Attorney General, were able lawyers, though neither had been in a position by this time to make a name for himself. Legare, a South Carolinian, was not in the good graces of Calhoun, and his selection indicated that the administration was asking no favors of the South Carolinian. Upshure was a judge of the General Court of Virginia in 1826 when Tyler was governor, and he had played a prominent role in the Virginia Constitutional Convention of 1829-1830. William H. Spencer, the Secretary of War, had been associated with Tyler in the House of Representatives. At the time of his appointment he was Secretary of State for New York and had lately been active in opposing the administration. For this reason surprise was expressed that Tyler would offer and he would accept the position. Walter Forward of Pennsylvania, the Secretary of the Treasury, and Charles A. Wickliffe, the Postmaster General and ex-governor of Kentucky, completed the new cabinet. It was said that John McLean of Ohio had been offered the position of Secretary of War, and that the post of Secretary of the Navy had been offered to Representative Wise, but both declined appointment.<sup>19</sup>

The clamor for Webster's resignation became greater after negotiations with Lord Ashburton had been completed. He grew tired of hearing the odium that attached to him because of his connection with the Tyler administration.

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<sup>18</sup> Tyler to Tazewell, September 15, 1841, in Tyler, Letters and Times, II, p. 131.

<sup>19</sup> Niles' National Register, LXI, p. 33; Tyler Papers, II, 6405, Library of Congress.

Besides, when the President took up Texas negotiations it would be embarrassing to have a Secretary of State who was opposed to annexation. Both Tyler and Webster were anxious that the latter's retirement would be effected without disturbing the cordial relations that still existed between them. Webster made up his mind in the spring of 1843 to withdraw from the cabinet. The correspondence by which the resignation was accepted was of the most cordial nature, and the two maintained uninterrupted friendship until the death of Webster.<sup>20</sup>

The cabinet changes of September, 1841, were only the beginning of numerous changes to follow. During his term, Tyler made nineteen changes to head the five executive departments. Three of these appointments were the results of deaths of cabinet members and two appointees failed to receive confirmation by the Senate. Fourteen appointments were the result of resignations. This reflects Tyler's desire to surround himself with subordinates who were competent and willing to execute his policies without important reservations. A member of Tyler's cabinet usually had a thankless job, for he was subjected to criticism from all sides, thus making his position untenable.<sup>21</sup>

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<sup>20</sup>Curtis, Daniel Webster, II, pp. 130-131.

<sup>21</sup>Webster, Writings and Speeches, XVI, pp. 404-405.

## CHAPTER V

### THE SECOND SESSION AND IMPEACHMENT MOVES

Having vetoed two Whig bank bills, Tyler felt a strong personal obligation to devise a fiscal scheme of his own which would facilitate interstate banking operations while remaining entirely constitutional in structure and function. He was also under pressure from his friends to produce a plan which would provide a permanent settlement of this question. Thus Tyler left the capital in mid-October for a much needed rest in Williamsburg, where he planned to "meditate in peace over a scheme of finance." By December, 1841, he had worked out a plan which was basically a version of one Jackson proposed in 1830. Tyler had some help from Littleton W. Tazewell, an old friend who had left the Whigs to return to the Democratic fold. It was a system in which state banks would play an important part.<sup>1</sup>

Tyler's idea envisioned a public banking institution directed by a nonpartisan Board of Control in Washington, with agencies, some of them state banks, located in principal financial centers throughout the country. No capital was to be raised by private subscriptions, so there would be no private stockholders. The agencies, or branches, would facilitate interstate commerce by being authorized to buy and sell domestic bills and drafts. The branches could also receive deposits of gold and silver and issue negotiable certificates for these metals that would

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<sup>1</sup>Tyler, Letters and Times, II, pp. 129-131.

circulate as currency. Government monies would be deposited in the agencies and these deposits would permit the government, through the issuance or recall of Treasury notes, to increase or decrease the amount of sound money in circulation at any time. It was a well-conceived system. The sovereignty of the states was protected in a provision which forbade the branches to transact any business of a private nature which would be in conflict with the laws of states in which they functioned. The Tyler proposal combined a states' rights approach with a national approach that would relieve the Chief Executive from a controlling power over the public Treasury.<sup>2</sup>

When the scheme was submitted to the cabinet, it received enthusiastic support. Spencer, who had been one of the strongest opponents of the second Bank of the United States, and Webster, who had always been an ardent champion of a national bank, praised the plan. Spencer said that it had been approved by some of the most competent financiers of this country and England, who called it "safe for all our wants," and would furnish the "most perfect currency that could be devised." It would accomplish all interstate banking needs without stimulating anew the reckless spirit of speculation.<sup>3</sup> Webster in his Faneuil Hall speech in Boston said that this Exchequer plan, as Tyler named it, had his hearty approval. He was willing to stake his reputation that, if the Whig Congress would give it a fair trial, within three years the whole country would admit it to be the most beneficial measure ever adopted, the "Constitution only excepted."<sup>4</sup>

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<sup>2</sup>Tyler's Exchequer plan in Tyler Papers, II, 6433, Library of Congress.

<sup>3</sup>Niles' National Register, LXII, p. 141.

<sup>4</sup>Webster, Writings and Speeches, III, pp. 133-135.

The President in his first annual message, December 7, 1841, gave an outline of his plan of finance that the Secretary of the Treasury would present in detail to Congress, should it so desire. At the request of Cushing, the Secretary of the Treasury presented the President's scheme. Despite the merit of the proposal it was doomed to failure. By falling somewhere between the Democrat's Independent Treasury and Clay's bank it satisfied the partisans of neither approach. Both attacked it. The Exchequer plan had no chance politically, although it represented the middle course which characterized the remainder of the Tyler administration. In spite of a vigorous fight for the plan by Congressmen Cushing, Wise, Profitt and others of the "Corporal's Guard," the project was tabled without adequate discussion in the 1841-1842 session. That was the end of it, and public monies continued to lie in selected state banks, which must have delighted old Jacksonians.<sup>5</sup>

By July, 1842, the relationship between the executive and the legislative branch had reached a stalemate. Whig strategy was to produce legislation the President could not approve, and then charge perfidy, treason, and executive dictatorship when the expected veto was delivered. Tyler, in turn, continued to veto legislation he could not stomach while vigorously defending his right to do so. He also steadily declared his desire to harmonize with Congress in the enactment of all necessary measures if the majority in Congress would permit him to do so. In his relations with Congress in 1842, Tyler constantly searched for that "moderation, which is the mother of true wisdom," and found little. He remarked in June, 1842, with sadness tinged with frustration, "I fear that

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<sup>5</sup>Tyler's 1841 annual message in Richardson, ed., Messages and Papers, IV, pp. 84-87; Tyler, Letters and Times, II, pp. 131-134; Congressional Globe, 27th Cong., 2nd sess., pp. 248-249.



more firmness and wisdom are necessary to carry us safely through the trial than I can in any way lay claim to."<sup>6</sup>

The Clay-dominated Congress was, Tyler fumed, a do-nothing body whose sole function was the destruction of the administration in preparation for the coming mid-term elections. In his annual message of December 7, 1841, Tyler had called for his Exchequer plan, a new tariff-for-revenue bill which would "afford to manufacturing interests ample aid," and an expansion of the Army and Navy. By July, 1842, none of these vital projects had been acted upon. "If nothing has been done to accomplish any of these objects," Tyler said, "the fault is not with the Executive." He thought it "particularly abominable that this miserable Congress should not even yet have passed the Army or Navy appropriation bill," thus "subjecting the country to be browbeat" by the Mexican dictator, Santa Anna. The Congress had not brought forward a single important measure. On the contrary, according to Upshur, theirs was the "deliberate purpose to make Clay President . . . even at the hazard of revolution." The time had finally come, thought Upshur, for the people in both parties to "shake off their leaders, and come at once to the rescue of the country."<sup>7</sup>

As the government of the United States virtually ceased to function, Tyler became increasingly aware of the painful fact that the treasury was bare. A national debt of over five million dollars had been left by the Van Buren administration, along with an unbalanced budget for 1840-1841 which ultimately raised the debt to \$17,736,000 by January 1, 1842. The

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<sup>6</sup>Tyler to Nathaniel B. Tucker, June 16, 1842, in Tyler, Letters and Times, II, p. 168.

<sup>7</sup>Tyler to Philadelphia Fourth of July Committee, July 2, 1842, in *ibid.*, p. 171; Tyler to McCandlish, July 10, 1842, in *ibid.*, p. 173; Upshur to Nathaniel B. Tucker, July 8, 1842, in *ibid.*, pp. 156-158.

pay of the military and civil service had on occasion in 1841 been suspended by Tyler because the public coffers were empty. Treasury notes declined steadily in value in 1842, and the Home Squadron of the Navy was tied up as an economy measure.

As has been seen, the third item on Clay's program was the raising of an adequate revenue by the imposition of tariff duties. The fourth item was the prospective distribution among the states of the proceeds from the sales of public lands. If the budget deficit were to be wiped out, an increase in tariff duties would have to be made. The distribution of the proceeds from public land sales would be a great boon to the states, many of which were staggering under debt burdens too heavy for them in a period of hard times. Inasmuch as both Tyler and Clay were favorable to both tariff increase and distribution, it looked as though the task could be done.

In a special message to Congress on March 25, 1842, the President made a more definite recommendation as to the tariff. In order to meet the expenses of government and provide for adequate defense it would be necessary to put the tariff rates above the twenty per cent maximum, set by the Compromise Act of 1833, on some important items. These rates should be made primarily for the purpose of increasing revenue, but would necessarily afford incidental protection to manufacturers. Tyler expressed regret for the necessity of departure from the principles of the Compromise of 1833, for according to it, when tariffs were raised above twenty per cent, the distribution of land sale proceeds would automatically cease.<sup>8</sup>

This message proved to be an empty gesture, for the Whig majority in

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<sup>8</sup>Richardson, ed., Messages and Papers, IV, pp. 108-109.

both branches was more inclined to disregard the recommendations of a President whom it had repudiated. Despite Tyler's insistence on prompt action, Congress was slow to take up the important revenue question. Finally two bills were passed, one providing for a provisional and the other a permanent tariff. The provisional bill, passed on June 25, 1842, postponed for one month the reduction of rates which were due to expire on July 1 under the Act of 1833. It further retained the distribution clause.<sup>9</sup> The permanent bill, passed on August 5, 1842, raised the tariff rate above the twenty per cent level and provided for unconditional continuance of distribution. This measure was carried by a narrow margin in each House.<sup>10</sup>

Tyler considered that Congress was morally obligated not to suspend or repeal the Act of 1833 except under imperative necessity. He was forced to admit that financial needs of the federal treasury constituted such an exigency. He would agree to suspend the Compromise of 1833 to secure the revenue needed by the government, but he was not willing to sacrifice it for protection or distribution. He vetoed the provisional tariff bill on the grounds that it violated the principle of both the Compromise and distribution acts.<sup>11</sup> Tyler further confounded Congress by directing that the revenue continue to be collected under the Act of 1833. In doing this he was guided by Legare, his Attorney General, who concluded that the Act of 1833 could be executed beyond its expiration date in the absence of further legislation.<sup>12</sup> Although the question of the

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<sup>9</sup>Congressional Globe, 27th Cong., 2nd sess., p. 615.

<sup>10</sup>Ibid., pp. 762, 852.

<sup>11</sup>Richardson, ed., Messages and Papers, IV, pp. 180-183.

<sup>12</sup>Benjamin F. Hall, ed., The Opinions of the Attorneys General (4 vols., Washington: Robert Farnum, 1852), III, p. 56.

basis for the Secretary of the Treasury's action in continuing to collect tariffs was raised in the House, the only action taken by that body was to print the report of the Committee on the Judiciary.<sup>13</sup> The attempts to pass the provisional tariff bill over the President's veto failed.

That the President would veto the permanent tariff bill of August 5 should have been clearly evident to anyone who had any faith in his loyalty to conviction. It would have been the height of inconsistency to have accepted this bill after vetoing the provisional tariff measure. It looked as if the Whig Congress was primarily interested in "heading" the President. By forcing him to make an unpopular veto at a time when the government was in dire financial straits would put him in an unfavorable light with the public and make him the scapegoat. Nevertheless, Tyler returned the bill to the House with his objections. His veto message was an able state paper. His objections were the same as those he presented in the veto of the provisional tariff measure. The bill, which never became law, raised tariff rates above the twenty per cent level and at the same time continued distribution.<sup>14</sup>

The jubilation of Clay partisans was unbounded when Tyler vetoed both tariff measures. Crittenden wrote Clay, "If we can keep up the feeling that now exists, your election is certain. Tyler is one of our best friends; his last veto . . . just reached the convention in Maine, which nominated you and denounced him."<sup>15</sup>

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<sup>13</sup>U.S., Journal of the House of Representatives, 27th Cong., 2nd sess., pp. 1036-1037.

<sup>14</sup>Richardson, ed., Messages and Papers, IV, pp. 183-189.

<sup>15</sup>Anna M.B. Coleman, ed., The Life of John J. Crittenden (2 vols., Philadelphia: J.B. Lippincott and Co., 1871), I, p. 199, cited hereinafter as Coleman, Crittenden.

The Whig policy, designed to raise Clay more than revenue, quickly shifted to the appointment of a House select committee to investigate the reasons given by Tyler for his latest veto of the tariff-distribution bill. As anticipated, the committee was carefully packed to produce the predetermined result. Chaired by John Quincy Adams, and in its heavy Whig majority such proven anti-Tylerites as Botts, the committee reported its findings on August 16, 1842. The document went far beyond a formal criticism of the President's veto of the tariff-distribution bill. It was a wide-ranging, free-swinging attack on the Tyler administration from the moment it came to power. It recommended an amendment to the Constitution that would permit the overriding of a White House veto by a bare majority. It concluded with the observation that Tyler was a fit subject for impeachment proceedings. A dissenting minority report, signed only by Democratic Congressman Charles J. Ingersoll of Pennsylvania, and Roosevelt of New York, defended the President's stewardship of the nation for the preceding seventeen months.<sup>16</sup>

The severe arraignment of the majority report was based not on carefully sifted evidence but on facts distorted by partisanship and rumor colored by hate. When viewed in an attitude of cool objectivity it appears more an indictment of the committee than of Tyler. The emotional, biased statements made in the report cannot be admitted as evidence against the President, while they afford irrefutable proof of the bitterness and unfairness that characterized the findings of the committee. A counter report, which was in the nature of a protest, was sent in by Gilmer, a member of the "Corporal's Guard." The President was upheld and

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<sup>16</sup>Congressional Globe, 27th Cong., 2nd sess., pp. 894-896; the text of the minority report is in *ibid.*, pp. 899-901; Niles' National Register, LXII, pp. 395-397.

the action of the House condemned. Gilmer contended that the House in tabling the veto and referring the President's reasons for the veto to a committee instead of reconsidering the measure was running counter to traditional practice and the spirit of the Constitution.<sup>17</sup>

The majority report was adopted by the House by a vote of 98 to 90. The adoption of the report led the President to send a protest to the House on August 30, 1842. This was a dignified statement expressing strong arguments forcefully expressed. In making these accusations, Congress had been unjust to him as a man, had infringed upon his powers as Chief Executive, and had violated the rights of every citizen granted in the Constitution. Tyler continued:

I have been accused without evidence and condemned without a hearing. . . . I am charged with violating pledges which I never gave . . . with usurping powers not conferred by law, and, above all, with using the powers conferred upon the President by the Constitution from corrupt motives and unwarrantable ends. And these charges are made without a particle of evidence to sustain them, and, as I solemnly affirm, without any foundation of truth.<sup>18</sup>

The whole proceeding of the House he characterized as in the interest of one side only and extrajudicial. If he were guilty of the high crimes as charged, then Congress should have employed the method of impeachment and trial.<sup>19</sup>

Tyler dispatched his defense of his behavior to the House with the request that it be printed in the House Journal as a solemn and formal declaration against injustice and the unconstitutionality of such proceedings. This entreaty was refused, and gleeful Whigs pointed out that

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<sup>17</sup>Congressional Globe, 27th Cong., 2nd sess., pp. 896-899.

<sup>18</sup>Ibid., p. 899.

<sup>19</sup>Richardson, ed., Messages and Papers, IV, pp. 190-193.



Tyler himself had resigned from the Senate rather than vote to deny Jackson the same privilege in 1834.<sup>20</sup>

In the midst of renewed assault, Tyler signed into law the controversial Tariff Act of 1842, a bill pushed through by an alliance of protectionist Whigs and Democrats. Congress was becoming alarmed by the stark emptiness of the Treasury. In this sense it was regarded by its backers as a tariff for much needed revenue, and it did return some tariff schedules to the high rates of 1832. There was no distribution rider attached. Tyler's approval of the measure was at variance with his long standing hostility toward high tariffs. But the Treasury was desperate for a new infusion of funds, and half a loaf was better than none.<sup>21</sup>

Whatever his motives in signing the Tariff Act of 1842, Tyler was clearly unsettled and hurt by concurrent Whig talk of impeachment. He knew that the Whigs did not have the votes to accomplish such a radical solution to their frustrations, but the chattering itself angered him and drove him even closer to the Democracy for aid and comfort. The impeachment movement began in July, 1842, at which time a resolution was introduced in the House by Botts calling for the appointment of a special committee to investigate the President's conduct of office with a view toward recommending impeachment. Clay agreed that "the inevitable tendency of events is to impeachment," but he felt the timing and introduction of the Botts motion was unfortunate. He believed that the politics of the situation called for lesser punishment such as a House vote of "want of confidence" in Tyler rather than formal impeachment proceedings. While he encouraged the impeachment movement behind the scenes, Clay urged that

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<sup>20</sup>Congressional Globe, 27th Cong., 2nd sess., pp. 973-975.

<sup>21</sup>Ibid., pp. 912, 923-926, 973.



it proceed with great care. It had proceeded practically nowhere when Tyler learned of it and fairly exploded, "I am told that one of the mad-caps talks of impeachment."<sup>22</sup>

Congress adjourned on August 31, 1842, to face their constituents in the elections of that year. The results of the 1842 elections would seem to repudiate the Whigs in Congress, for their majority in both Houses was cut drastically. In the session which met in December, 1842, Whigs would need to rely on much support from Democrats to get measures passed, for the Whigs were hopelessly split. Tyler delivered his annual message to an apathetic Congress which listened with a pronounced indifference. The President asked for a downward revision of tariff and the adoption of his Exchequer plan. He insisted that Congress pass a bill to reimburse Jackson a thousand dollars for a fine levied in 1815 when the General was in command of New Orleans. Tyler asked for little more, nor did he expect more, from what was probably the most obstinate Congress a President ever tried to work with.<sup>23</sup>

The first attempts to impeach the President never got beyond the discussion stage, but Botts was not content to let the matter die. On January 10, 1843, he introduced his impeachment resolution in the House. He recommended that a committee of nine members be appointed with instructions to diligently inquire into the truth of nine charges which he made against the President. Generally, Botts charged the President with gross usurpation of power in exercising influence and control over the Treasury and with high crimes and misdemeanors in aiding and exciting a

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<sup>22</sup>Clay to Crittenden, July 16, 1842, in Coleman, Crittenden, I, p. 201; Tyler to McCandlish, July 10, 1842, in Tyler, Letters and Times, II, pp. 173-174.

<sup>23</sup>Richardson, ed., Messages and Papers, IV, p. 194.

revolutionary spirit in the country. He charged Tyler with arbitrary, despotic and corrupt abuse of the veto power. All nine charges were vague. The House, however, brought the resolution to a vote. It was soundly defeated by a vote of 83 to 127.<sup>24</sup> Only the most extreme Clay and Van Buren men supported it. "There was," reported Senator David Gardiner, who witnessed the vote, "no excitement and little debate, and this . . . foolish attempt will only result in increasing the number of the President's friends."<sup>25</sup>

Though the President was scorned and villified during the remainder of his term, this was the last attempt of Congress to take official action against him. Well managed as it was, his administration still remained a caretaker operation. His crime, if there was one, seemed to be an over zealous attachment to his states' rights doctrine and a very strict construction of the Constitution. He faced ostracism from his party and alienation of friends to stand by principles in which he firmly believed. Tyler would not be cowed by a Clay dominated Congress.

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<sup>24</sup>Congressional Globe, 27th Cong., 3rd sess., pp. 144-146.

<sup>25</sup>D. Gardiner to A. Gardiner, January 11, 1843, in Tyler, Letters and Times, II, p. 231.

## CHAPTER VI

### CONCLUSIONS

Tyler's veto of the second bank bill and his subsequent ouster from the ranks of the Whig party mark the final rupture between the President and Congress. The relationship of the two branches during the next two sessions was strained to the point that no constructive legislation came forth. The third session, which saw Botts resolution of impeachment, was an aftermath to the great conflict of 1841. After the special session was adjourned on September 13, 1841, Congress conducted its business at one end of Pennsylvania Avenue and the President conducted his business at the other end. There was little communication between the two branches apart from the necessary minimum.

The President was overly sensitive to the charge of dictating to Congress. He was, therefore, reluctant to take the initiative in legislative leadership. The framers of the Constitution did not clearly define the President's legislative role, but left this problem to be worked out by later statesmen. The President's initiative in the legislative process, if he has any at all, is at best held precariously. Under the system of checks and balances, the Chief Executive can be held pretty much in check by Congress through its powers to control the purse and the power of approval or disapproval of many of his actions. Aside from the devices of party, which a President may utilize with varying degrees of skill, the legal tools which give him a share in the legislative process are few in number. Viewed in a broad sense, the problem of legislative relationship

of the President to Congress involves the two steps of proposing and approving legislation. But the Constitution is vague as to what degree the two branches may proceed to accomplish either or both steps. During the twentieth century we have come to the solution that the executive proposes legislation while the legislature performs the function of deliberation in granting or withholding approval. By contrast, the nineteenth century was marked by legislative ascendancy over the executive, who was still identified to a marked degree with absolute rule.<sup>1</sup>

It is in this context that the struggles between President Tyler and Congress over the question of legislative initiative and approval should be considered. The Jackson and Tyler administrations mark a point of crisis involving the executive-legislative relationship. Jackson could interrupt the period of legislative supremacy because he, and not Congress, was the symbol of the newly enfranchised masses. Tyler played no such symbolic role, and yet his states' rights convictions forced him to use the veto vigorously and thereby to thwart the determined bid of the Whigs in Congress to impose upon the President both Clay's program and the doctrine of legislative guardianship over the executive. The struggle for supremacy between the executive and the legislative branches during Tyler's administration was a one-sided affair. The legislative branch, which early seized the initiative, forced Tyler into a defensive position, and his only effective weapon was the veto.

In the Tyler administration the struggle over the legislative process took place between one of the greatest of all Congressional leaders and one of the most obstinate of Presidents.<sup>2</sup> It took a form which was

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<sup>1</sup>Binkley, President and Congress, pp. 36-41.

<sup>2</sup>Arthur N. Holcombe, Our More Perfect Union (Cambridge: Harvard University Press, 1950), pp. 99, 252-253.

dictated as much by circumstances as by personalities. Clay was an original National Republican who became a Whig when Jackson identified the Presidency with the interests of the farmer and small industrialist. He represented the capitalist's interests in Congress. While Tyler was perfectly willing to bear the name Whig, he saw no inconsistency in his opposition to National Republicanism in any form, including Clay's "American System." Both had come into the Whig ranks with only one thing in common -- their opposition to Jacksonian policies.

The most notable fact which contributed to the failure of Tyler to become chief legislator during his administration was that he almost never told Congress precisely what detailed legislation he thought should be enacted. Moreover, Tyler was guilty of this omission at times when positive action would quite probably have saved him political embarrassment. He sought carefully to avoid raising the cry that his actions constituted dictation to Congress. In short, with very few exceptions, Tyler considered it to be the President's function to inform but not to lead Congress. In his annual messages to Congress Tyler rarely made a detailed recommendation, but he did touch on the major problems of the day. Frequently, as in his message to the special session of the twenty-seventh Congress and in his first annual message in December, 1841, he indicated to Congress that, should that body desire it, he would submit the detailed plans drawn up by the heads of departments. He was willing to say that something should be done by Congress, but he was unwilling to say how it should be done. Thus, there was virtually no executive bill-drafting in the Tyler administration. Also, his direct supporters in Congress were so few in number that he did not even enjoy the advantage of having his followers in key committee posts where they might have drafted bills for him.

In his first message to the special session of the Twenty-Seventh Congress, Tyler refrained from urging the very measures which he knew were closest to the hearts of the Whigs descended from the National Republican school. He considered it undesirable either to urge the creation of a bank in any way resembling the first and second Banks of the United States or to seek an increase in the protective tariff. Since the program of internal improvements and the distribution of the proceeds from the sales of public lands depended upon the continuation of a high tariff, Tyler had no enthusiasm for these measures. On April 30, 1841, Tyler told Clay that he hoped that the Whig leader would not urge the bank prematurely, but if Clay insisted, he hoped that the bank would be so framed as to avoid constitutional objections.<sup>3</sup> By his letter to Clay and his message to the special session, Tyler and Clay each knew rather clearly where the other stood, although the Whigs later made a great point of expressing surprise over the President's veto of the two bank bills.<sup>4</sup> It should have been crystal clear to Tyler that if Clay led the Whigs to accept a legislative program embodying his pet measures, he would either have to bow to their wishes or use the veto power to thwart them. Despite his knowledge of the situation, Tyler chose not to assume the legislative initiative. It appears that he did not intend to follow any other course of action.

Tyler, in practically all his dealings with Congress, adhered to cardinal Whig principles. The President would not presume to know better than Congress, the more immediate representatives of the people, what

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<sup>3</sup>The text of Tyler's message to the special session of Congress is in Richardson, ed., Messages and Papers, IV, pp. 40-51; Tyler to Clay, April 30, 1841, in Tyler, Letters and Times, II, p. 32.

<sup>4</sup>Poage, Henry Clay, pp. 68-72, 99, 106.



scheme of finance ought to be formulated. He indicated what he thought the people plainly showed they did not want -- pet banks, a national bank, and a subtreasury -- but it was unbecoming of him to say what the people did want. In short, he conceived it to be the function of the executive to inform but not to lead Congress, while reserving to himself the power to judge both the constitutionality and the propriety of such measures as Congress might enact. Congress could go its way, and the President would permit the powers of his office, except the veto, to languish.<sup>5</sup>

After the legislative storms of the summer of 1841, Tyler shifted his position slowly but noticeably by taking a somewhat more positive stand in making proposals dealing with financial problems. He told Congress in his first annual message that the Secretary of the Treasury would be ready to submit a plan of finance "should you require it."<sup>6</sup> Here Tyler referred to his Exchequer plan to which he had personally given careful thought in the interval since the two bank bill vetoes of the previous summer. In fact, he felt that the country expected him to formulate some bank plan in view of the vetoes, but he entered upon the task with little enthusiasm.<sup>7</sup> The President left with Congress the initiative in framing laws unless Congress saw fit to call upon him for his plans.

By March, 1842, Tyler became alarmed at the distressing state of the public treasury. He forwarded to the House a report of the Secretary of the Treasury indicating that a large deficit was anticipated at that time. In this message he said that he was submitting the suggestions made by the

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<sup>5</sup>Richardson, ed., Messages and Papers, IV, p. 42.

<sup>6</sup>Ibid., pp. 84-87.

<sup>7</sup>Tyler to Tazewell, October 11, 1841, in Tyler Papers, II, 6409, Library of Congress.



Secretary and invited the prompt action of Congress. When no quick action was forthcoming from Congress, he sent a message on March 25, this time to both Houses, in which he detailed plans to meet the financial crisis.<sup>8</sup> In this message Tyler outlined specific steps which he considered necessary. The tone was sufficiently imperative to attract the attention of Congress and the country alike. It marked the first and only occasion in which Tyler tried to seize the legislative initiative by sending Congress a program of action. His relations with both parties were such by this time that his plea for a suspension of partisanship fell on deaf ears. Tyler did not take this course willingly, but was forced to take the initiative because of an inactive Congress and a deep concern for the financial crisis.

In his actions as Chief Executive, Tyler emphatically rejected the notion that the President was subject to the guardianship of either Congress or his cabinet. When the Whigs asserted that the cabinet was a council by which the President must be guided in making policy, Tyler encouraged the resignation of every member of the group selected by Harrison and subservient to Clay. He did this in the face of what he thought was a plot to force his resignation from the Presidency for lack of department heads. Although he added nothing to the theory of the appointive power, he was careful to avoid what he thought was Jackson's abuse of the authority to make recess appointments.

It is one of the paradoxes of the office that the President must seek to balance his position as chief of his party with an equal need for support of his policies from all quarters of the nation regardless of partisan lines. He owed his office to the efforts of the party which put him there and, yet once in power, his success as a leader rests in no

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<sup>8</sup>Richardson, ed., Messages and Papers, IV, pp. 102, 106-111.

small measure upon securing a broad base of popular approval. In driving away the Whig irreconcilables under Clay and appealing to the nation for support of his measures, Tyler failed to achieve this delicate and very necessary equilibrium. If his press had been good, Tyler might have achieved a considerable amount of support for himself. He might have displayed himself to the public and thereby brought the battle to his opponents. But he was schooled in the retiring and gentlemanly politics of Virginia, where the office sought the man. Only once did he travel through a part of the nation, and that was to Boston for the dedication of the Bunker Hill Monument in June, 1842. His Whig opponents sneered at this gesture, and Adams absolutely refused to appear on the same platform with Tyler. Adams claimed that Tyler was trying to "whistle back" his Whig friends that he had cast off and to receive the homage of hungry flatterers under the guise of "doing homage to the principles of Bunker Hill."<sup>9</sup>

It is undoubtedly due to the bias of a number of historians that Tyler has been so long maligned as a vacillating, treacherous, unyielding and vain man who was one of the worst Presidents.<sup>10</sup> His record in office demonstrates that he was a man of courage, honesty, and determination who chose to follow a course of policy which he thought served the public good better than the one proposed by Clay. Had he decided to play the role of a manageable nonentity, he might well enjoy today the reputation of having been a patriotic although a colorless President. He refused to do so and thereby precipitated an extraordinary

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<sup>9</sup>Adams, ed., Memoirs, X, p. 382.

<sup>10</sup>This view is expressed in Chitwood, John Tyler, p. 371; Binkley, President and Congress, p. 99; and Poage, Henry Clay, p. 99.

struggle for institutional dominance within our constitutional system.

Unfortunately for Tyler, his opponent was the great statesman Clay, who was the acknowledged Whig leader from the inception of the party in the mid-1830's. Clay had an intense ambition to be President, and as the years passed his desire for the office increased. His Presidential aspirations had suffered setbacks along the way. In 1832 he was defeated by Jackson and in 1836 the fledgling Whig party saw fit to support others. Clay was bitterly disappointed in 1839 when the Whig convention failed to nominate him for the Presidency. He eagerly looked forward to the elections of 1844, for Harrison, old and infirm, declared his intention to serve one term only. But Harrison died and Tyler came into office, and he could become a stumbling block on Clay's road to the White House, for Tyler was not bound by a one term declaration. It was not difficult for Clay to hold his position as leader of Congress and the Whig party against a President who did not feel he should lead. Clay early seized the initiative by proposing a plan of action for Congress. But he must move carefully, for an administration which did not discredit Tyler in the eyes of the Whigs and the people would make him a logical candidate in 1844. Clay gauged his opponent accurately when he assumed that he would stick by his principles of a low tariff and no bank. The fiscal area was, therefore, the best way to put Tyler in an embarrassing position due to the critical finances of the Treasury. The two bank bills of 1841 and the tariff bills of 1842 were passed by a Clay dominated Congress with the expectation that the Presidential veto power would be exercised. These measures brought the desired results, for Tyler's vetoes alienated him from the Whig Party and gained the enmity of the people. By the time Congress met in December, 1842, Tyler was an impotent man politically. Overall, Tyler's term was one continuous political campaign, for the

desire to elect Clay to the Presidency in 1844 was behind virtually all the attempts at legislation made by the Whig Congress. The brilliant Kentuckian, knowing Tyler was dead as a political enemy, withdrew from the Senate on March 31, 1842, and went home to look after his private affairs and devote his energies to the campaign for the Presidency.<sup>11</sup> Clay received the Whig nomination in 1844, but was defeated by Polk in the elections.

Tyler probably did not enhance the prestige of the Presidency. The villification of his administration by his contemporaries was so intense and pervasive as to make anything Tyler did hazardous at best. Tyler deserves admiration for his political courage as well as for his honesty of conviction and personal dignity in office. If power is nourished with use, the Presidency did not languish in his hands. His vetoes were in defense of the Constitution as he understood it and his protest message was for the purpose of protecting the executive power. Courteous in his official dealings with Congress, he successfully resisted every effort of the Congressional opposition to violate the principle that neither branch should encroach upon the powers of the other or abdicate its proper functions within the constitutional scheme. In doing so, he learned that his own views of the proper scope of the President's powers had to be molded to fit the circumstances in which they were exercised.

The question as to whether Tyler added some intangible measure of influence to the Presidency has no quantitative answer. In the absence of qualities of leadership in Tyler, one is forced to view his administration from the standpoint of his contribution to the theory of the Presidency and his actions in using the powers bequeathed him by his

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<sup>11</sup>Clay to Brook, March 29, 1842, in Schurz, Henry Clay, II, p. 222.

predecessors. He determined for the future the tradition that a President by accident may use his official powers with a vigor and purpose undiminished by his peculiar position. Like Jackson alone before him, Tyler stood adamant in defending his office against the Whig dogma of legislative guardianship of the executive. The struggles of his administration were largely those fought by Jackson over the same issues, with the same weapons, and among many of the same adversaries. The Whigs came to power in 1840 determined to restore to the legislature the dominance over the executive which was lost under Jackson. They would have succeeded had it not been for a President by accident who stood by his principles and vigorously used the powers of his office as he saw them.

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## VITA

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