



Madison's Edited Remarks on the Constitutionality of a National Bank

House of Representatives, February 2, 1791

NOTE: What follows is an edited version of Madison's remarks, which are available online in Elliot's Debates on the EDSITement resource **American Memory** [<http://memory.loc.gov>].

I do not oppose all the banking systems, but I do not approve of the plan now under consideration. Banks offer several advantages. The public credit might be raised for a time, but only partially. On the other hand, banks tend to diminish the quantity of precious metals in a country. The country derives no particular benefit from the articles received instead of precious metals. To be truly useful in such a large country, banks should be in different parts of the United States. The state banks are more advantageous in this regard than any banking system we might substitute. In Great Britain, he observed, there can be only one bank, since the goal is to concentrate the wealth of the country in one place since the interest on their public debt is all paid in one place. Here the public debt is paid in all the different states.

I deny that Congress has the power to establish banks. All power in this country has been limited by the Constitution. Any power given to Congress must be pointed out in that instrument. If we ventured to interpret the Constitution, such interpretation must carefully preserve the idea on which that Constitution is founded. I see no clause in the Constitution that grants Congress the power of incorporation. It is not in the power to lay taxes. If the power exists in Congress' responsibility to provide for the general welfare right exists there, everything in the Constitution designed to ensure limits on power has broken down,

Under the old government a bank had been established; and so it was assumed that the present legislature had that power. The pressures on our former government justified almost any infraction of the rights given in the Articles of Confederation. But the old Congress was aware that it should not be in sole possession of the power necessary for the establishment of a bank, and therefore recommended to the individual states to regulate the bank.

To exercise the power in this bill is an infringement on the rights of the states. A national bank would take away their right to establishing their own banks and prohibit the establishment of others. A law already exists in one of the states prohibiting the issuance of cash notes, payable on demand. The power of making such a law cannot be denied to the states and such laws certainly would exclude the establishment of a bank responsible for a national system of paper money.

Some gentlemen have found the power of establishing a bank from the right, granted in the Constitution, of borrowing money. This bill is not about borrowing money. It was said that Congress not only has the power to borrow money, but to enable people to lend. If Congress has the right to enable people to lend, who are willing, but not able, it might be said that they have a right to compel those to lend, who were able, and not willing.

The clause in the Constitution which empowers Congress to pass all the laws necessary, if too loosely interpreted would give Congress every possible power that might be exercised. The government could control charters, incorporations, and monopolies. This doctrine of implied

powers is a dangerous one. The power to incorporate is extremely important, and therefore needs to be specifically in the Constitution, to allow Congress to exercise such power.

To confirm my ideas, I have read some speeches made in several of the state conventions by those in favor of adopting the Constitution. I will share them with you now. The speakers all agree that the general government may not exceed the expressly delegated powers. Indeed, that's why the Constitution contains the power to amend it. There would be no need to amend the Constitution if all these other powers are already implied.

The words necessary and proper were meant in a very limited sense. They were thought to extend only to the passing of such laws as were absolutely necessary to the very existence of the government. In the Constitution, the important responsibilities of government were specifically listed. It is true, however, that the means for carrying out these responsibilities were not, nor could they all be, pointed out, without making the Constitution a complete code of laws. Some discretionary power, and reasonable latitude, must be left to the judgment of the legislature. The Constitution, for example, gave Congress the power to collect taxes. It did not specify precisely how this would be done.

It authorized Congress to borrow money; but from whom, on what terms, and in what manner, it did not say. Important powers are specifically granted. If the bank which is before the House could be proven necessary and proper to carry into execution any one of the powers given to Congress by the Constitution, this would at once determine the constitutionality of the measure.

I will not dwell any longer on the constitutionality of the plan under consideration, but will only make one observation. I do agree that, if the letter of the Constitution is strictly adhered to, and if no flexibility is allowed, no power could be exercised by Congress, and all the good that might be reasonably expected from an efficient government would be entirely frustrated.