



## Excerpts from the Debate in the House over the National Bank <http://edsitement.neh.gov>

House of Representatives, February 2, 1791

NOTE: The debate over the National Bank continued in the House on February 7, 1791.

Mr. GILES: I consider the plan as containing a principle not agreeable to the Constitution. Furthermore, it is not altogether necessary in this situation.

To show its unconstitutionality, I have read aloud to you the 1st section of the bill which established the subscribers of the bank into a corporation, to do which I believe the Constitution has not given Congress the power. I have read aloud to you the clause in the Constitution... This clause only refers to the necessary powers to carry out actions that were expressly mentioned; that of forming corporations was not expressly granted. The power of borrowing money, vested in Congress by the Constitution, contradicts the idea that a bank is necessary to carry it into execution. It might lead to a greater ease in exercising that power; but I deny that a National Bank is necessary either to secure loans or to establish the government.

If Congress, in this instance, exercises the power of erecting corporations, it is unlimited and Congress might--if thought fit, extend it to granting other monopolies. This would place us in the precise situation of a nation without a free constitution.

The clause in the Constitution which prohibits Congress from giving a preference to one part of the United States over another is enough in and of itself to justify a rejection of this plan.

Our central government is not a consolidated government, but a federal government, possessed only of such powers as the states or the people have expressly delegated; but to support these incidental powers is to make it a despotic government. If this idea is contemplated, the people will be alarmed, they will justly be alarmed, and I hope they will be alarmed.

Mr. VINING: I have given the subject a full and dispassionate consideration; and, so far from thinking the plan contrary to the Constitution, I consider it perfectly in harmony with it.

Look at the principles, design, and operations of the bank systems. I deduce their usefulness from the experience of those countries which have used National Banks for a long time. The constitutionality of the measure comes from a reasonable interpretation of the powers which are expressly delegated to Congress, and from everything that reasonable interpretation implies. I insist that the Constitution is a dead letter if implied powers are not exercised.

Mr. AMES: I have no doubt of the constitutionality of the plan. If we are to judge what is right on this occasion from public reactions in the past, their approval of the measures taken by the old Confederation, respecting the Bank of North America, and their total silence on the

constitutionality of the plan before Congress at this day, are sufficient proofs of what the people think about this subject.

The first question that occur on this subject are whether or not the powers of the House are confined to those expressly granted by the letter of the Constitution, or whether it is safe to proceed based on powers that are implied. If we adhere only to the letter of the Constitution, the answer is obvious. But we must adopt a more rational plan. It is the very nature of government, that the legislature has an implied power of using every means, not positively prohibited by the Constitution, to execute the ends for which that government was instituted.

Suppose that the power of raising armies had not been expressly granted to the central government. Would it be inferred from that that they had been given the power to declare war without being given the means to carry it out? This would be a very dangerous doctrine.

We dealt in the House with the problem of redeeming the prisoners in captivity at Algiers. Who here would urge that nothing could be done, because no power had been specifically granted? The power of buying certificates was not particularly mentioned in the Constitution; yet it has been exercised by the general government, and was inferred from the power of paying the public debt, and from the facts of the case. The power of establishing banks, can be deduced in the same way--from their utility in the ordinary operations of government, and their indispensable necessity in cases of sudden emergencies. It was said that the state banks would serve all these purposes; but why deprive the general government of the power of self-defense?

Mr. SEDGWICK: I'm surprised anyone would object to the constitutionality of this bill.

A gentleman from Virginia (Mr. Madison) has taken some pains to convince the House that he has uniformly been opposed to seeing the general government exercise the power of establishing banks. I do not wish to accuse the honorable member of inconsistency, but he had no problem giving the President of the United States the authority to remove officers. But in this case, he was very willing to take up the preset question solely on its own merits, without reference to former opinions.

In the present case, I believe the answers rest on the meaning of the words necessary and proper.

Mr. LAWRENCE. The principles of the government and ends of the Constitution are expressed in its preamble. It is established for the common defense and general welfare. The body of that instrument contained provisions intended to achieve those ends. Congress must constantly keep its eye on "the common defense and general welfare." To do so, it must have the necessary powers to carry the ends into execution.

Mr. JACKSON. From the power given to the central government of making all necessary laws concerning the property of the United States, some of you have deduced a right to establish a national bank. It was asked, "Aren't banks property?" If banks are property, they are property of a peculiar nature. They are not property like an ox or an ass. They cannot be taxed.

It is true that the fiscal responsibilities for the Union are vested in Congress. But this does not authorize Congress to adopt any measure it should think fit for the regulation of the finances. The very Constitution which granted these fiscal powers restricted them as well. For example, Congress is not allowed to impose duties on exports; yet they are undoubtedly fiscal operations. The Constitution does not grant Congress unrestricted powers in these matters.

Gentlemen have deduced this power from various parts of the Constitution. The preamble and context have been mentioned; the clause that provides for laying taxes has been particularly dwelt upon; but surely the bill before the House lays neither an excise, direct tax, nor any other, and could, therefore, not come within the meaning of the clause.

Mr. BOUDINOT. Some gentlemen in the House say that the Constitution does not expressly warrant the establishment of such a corporation as a National Bank. If, by expressly, express words are meant, it is agreed that there are no express words. This is the case with most of the powers exercised by Congress. If you reject the idea that it is sometimes necessary to exercise an implied power, I do not see what the supreme legislature of the Union could do. I am firmly of the opinion that a national bank is a necessary means, without which a necessary end could not be obtained.

Mr. STONE: The friends of this bill have not confined themselves to such means as were “necessary and proper,” but have extended their views to those that are “convenient and agreeable.” If, in the plan before the House, a provision had been made to insure that money could be procured by the government on loan from this bank, it would make more sense to urge its establishment. But then the bank could, and, whenever it was in its interest, certainly would, refuse to lend money to the government. If the power, in this case, was deduced by implication, and was exercised because it was thought necessary and proper, it might be the opinion of a future Congress that monopolies, in certain cases, might be useful, and a door would then be open for their establishment.