



Events: 1775-1817

Event	Year	Connection to Madison, if any
Second Continental Congress convenes	1775	
The Articles of Confederation adopted	1781	
Constitutional Convention convenes; Virginia Plan introduced	1787	
Many states ratify the Constitution, including N.Y., Va., and N.H. (the ninth state to do so)	1788	
Washington selected president by the Electoral College	1789	
First National Bank approved	1791	
Bill of Rights ratified	1791	
Washington declares U.S. neutral in conflict between Britain and France	1793	
Jay's Treaty	1794	
Washington warns against partisanship in farewell address	1796	
Alien and Sedition Acts	1798	
Kentucky and Virginia Resolutions declare Alien and Sedition Acts unconstitutional	1798	
Jefferson becomes president	1801	
Louisiana Purchase	1803	

Supreme Court establishes Principle of Judicial Review in Marbury v. Madison	1803	
Lewis and Clark set out from St. Louis	1804	
U.S. embargo of exports to Britain and France	1806	
The Non-Intercourse Act prohibits imports from Britain and France	1808	
U.S. declares war against Britain	1812	
Congress charters the Second Bank of the United States	1816	
Construction of Erie Canal begins	1817	



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.



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.



Madison's Complete Remarks on the Constitutionality of a National Bank <http://edsitement.neh.gov>

House of Representatives, February 2, 1791

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

Mr. MADISON did not oppose all the banking systems, but did not approve of the plan now under consideration.

Upon the general view of banks, he recapitulated the several advantages which may be derived from them. The public credit; he granted, might be raised for a time, but only partially. Banks, he conceived, tended to diminish the quantity of precious metals in a country; and the articles received in lieu of a portion of them, which was banished, conferred no substantial benefit on the country. He dwelt on the casualties that banks are subject to.

To be essentially useful in so extensive a country, banks, he said, should be fixed in different parts of the United States; and in this view, the local banks of the several states, he said, could be employed with more advantage than if any other banking system was substituted. Circumstances, in Great Britain, he observed, required that there should be one bank, as the object there is to concentrate the wealth of the country to a point, as the interest of their public debt is all paid in one place. Here a difference in circumstances called for another kind of policy: the public debt is paid in all the different states.

He then expressly denied the power of Congress to establish banks. And this, he said, was not a novel opinion; he had long entertained it. All power, he said, had its limits; those of the general government were ceded from the mass of general power inherent in the people, and were consequently confined within the bounds fixed by their act of cession. The Constitution was this act; and to warrant Congress in exercising the power, the grant of it should be pointed out in that instrument. This, he said, had not been done; he presumed it could not be done. If we ventured to construe the Constitution, such construction only was admissible, as it carefully preserved entire the idea on which that Constitution is founded.

He adverted to the clauses in the Constitution which had been adduced as conveying this power of incorporation. He said he could not find it in that of laying taxes. He presumed it was impossible to deduce it from the power given to Congress to provide for the general welfare. If it is admitted that the right exists there, every guard set to the powers of the Constitution is broken down, and the limitations become nugatory.

The present Congress, it was said, had all the powers of the old Confederation, and more. Under the old government a bank had been established; and thence it was deduced that the present legislature had indubitably that power. The exigencies of government were such, he answered,

under the old Confederation, as to justify almost any infraction of parchment rights; but the old Congress were conscious they had not every power necessary for the complete establishment of a bank, and recommended to the individual states to make sundry regulations for the complete establishment of the institution.

To exercise the power included in the bill was an infringement on the rights of the several states; for they could establish [b]anks within their respective jurisdictions, and prohibit the establishment of any others. A law existed in one of the states prohibitory of cash notes of hand, payable on demand. The power of making such a law could not, [h]e presumed, be denied to the states: and if this was granted, and such laws were in force, it certainly would effectually exclude the establishment of a bank.

This power of establishing a bank had been, he said, deduced from the right, granted in the Constitution, of borrowing money; but this, he conceived, was not a bill to borrow money. It was said that Congress had not only this power to borrow money, but to enable people to lend. In answer to this, he observed that, if Congress had a right to enable those 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.

He adverted to that clause in the Constitution which empowers Congress to pass all the laws necessary to carry its powers into execution, and, observing on the diffusive and ductile interpretation of these words, and the boundless latitude of construction given them by the friends of the bank, said that, by their construction, every possible power might be exercised.

The government would then be paramount in all public cases: charters, incorporations, and monopolies, might be given, and every limitation effectually swept away, and could supersede the establishment of every bank in the several states. The doctrine of implication, he warned the friends to this system, was a dangerous one, which, multiplied and combined in the manner some gentlemen appeared to contemplate, would form a chain reaching every object of legislation of the United States. This power to incorporate, he contended, was of primary importance, and could by no means be viewed as a subaltern, and therefore ought to be laid down in the Constitution, to warrant Congress in the exercise of it, and ought not to be considered as resulting from any other power.

Incorporation, he said, is important as the power of naturalization; and Congress, he presumed, would not exercise the power of naturalizing a foreigner, unless expressly authorized by the Constitution. He read a sentence in the bill respecting the power of making such regulations as were not contrary to law. What law? Was it the law of the United States? There were so few, that this allowed a very considerable latitude to the power of making regulations, and more than any member, he conceived, would wish to grant. Were the laws of the individual states contemplated by this provision? Then it would be in the power of the separate states to defeat an institution of the Union. He asked by what authority Congress empowered a corporation to possess real estate. He reprobated this idea. To establish this bank was, he said, establishing a monopoly guaranteed in such a manner that no similar privilege could be granted to any other number of persons whatever. He denied the necessity of instituting a bank at the present time. The Constitution ought not to be violated without urgent necessity indeed. There were banks, in several of the

states, from which some advantages could be derived which could not be gained from an institution on the plan proposed.

In confirmation of his sentiments, he adduced certain passages from speeches made in several of the state conventions by those in favor of adopting the Constitution. These passages were fully in favor of this idea--that the general government could not exceed the expressly-delegated powers. In confirmation also of this sentiment, he adduced the amendments proposed by Congress to the Constitution.

He urged, from a variety of considerations, the postponement of the business to the next session of Congress.

... on the meaning of the words necessary and proper.

Mr. MADISON. Those two words had been, by some, taken in a very limited sense, and were thought only to extend to the passing of such laws as were indispensably necessary to the very existence of the government. He was disposed to think that a more liberal construction should be put on them,--indeed, the conduct of the legislature had allowed them a fuller meaning,--for very few acts of the legislature could be proved essentially necessary to the absolute existence of government. He wished the words understood so as to permit the adoption of measures the best calculated to attain the ends of government, and produce the greatest quantum of public utility.

In the Constitution, the great ends of government were particularly enumerated; but all the means 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, he said, had given power to Congress to lay and collect taxes; but the quantum, nature, means of collecting; &c., were of necessity left to the honest and sober discretion of the legislature.

It authorized Congress to borrow money; but of whom, on what terms, and in what manner, it had not ventured to determine; these points of secondary importance were also left to the wisdom of the legislature. The more important powers are specially granted; but the choice from the known and useful means of carrying the power into effect, is left to the decision of the legislature. He enumerated some other powers which are specified in the Constitution as belonging to Congress, and of which the means of execution are not mentioned; and concluded this part of his argument by observing that, if the bank which it was proposed to establish by the bill 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.

He would not, he said, dwell any longer on the constitutionality of the plan under consideration, but would only observe that no power could be exercised by Congress, if the letter of the Constitution was strictly adhered to, and no latitude of construction allowed, and all the good that might be reasonably expected from an efficient government entirely frustrated.



Madison on Rights of the States vs. Rights of the Federal Government

NOTE: The excerpts listed below are in chronological order. The Web URLs for the sources of the excerpts are provided so that interested students may access a complete version of each text.

As early as 1788, Madison felt that the powers relegated to the states would be the best guard against the potential abuses of a standing army. This excerpt is from Madison's Federalist No. 46 [<http://www.yale.edu/lawweb/avalon/federal/fed46.htm>], written January 29, 1788, and available on the EDSITEment resource **The Avalon Project**.

Extravagant as the supposition is, let it however be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted, whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the last successful resistance of this country against the British arms, will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

As a member of the House of Representatives, Madison expressed his opinion on the constitutional procedure for calling up the militia, in this excerpt from the Annals of Congress, Dec. 21, 1790 [<http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=002/llac002.db&recNum=293>], available on the EDSITEment resource **American Memory**. The president, though commander-in-chief, is not empowered by the Constitution to raise an army.

Mr. Madison said, he conceived it would be necessary to pass a law authorizing a President of the United States to call out the militia, as the Constitution only says that he shall be commander-in-chief of the militia when in the service of the United States, without giving him the power of ordering it out.

In the May 29, 1794, House debate on the bill for authorizing the president to lay, regulate, and revoke embargoes [[http://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field\(DOCID+@lit\(ed00426\)\)](http://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(ed00426)))], available on the EDSITEment resource **American Memory**, Madison explained how assigning the authority to raise and command an army to different branches serves as a check on the abuse of power.

Mr. MADISON. ...did not see any such immediate prospect of a war as could induce the house to violate the Constitution. He thought that it was a wise principle in the Constitution to make one branch of the government raise an army, and another conduct it. If the legislature had the power to conduct an army, they might embody it for that end. On the other hand, if the President was empowered to raise an army, as he is to direct its motions when raised, he might wish to assemble it for the sake of the influence to be acquired by the command the Constitution had wisely guarded against the danger on either side, Upon the whole, he could not venture to give his consent for violating so salutary a principle of the Constitution as that upon which this bill encroached.

In a House discussion of separation of powers on March 10, 1796 (Annals of Congress 5:493) [<http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=005/llac005.db&recNum=243>], available on the EDSITEment resource **American Memory**, Madison explained his position on the balance of power between the states and the federal government. The powers not assigned to the central government—and therefore relegated to the states—also serve as a check against the abuse of authority. Importantly, he said that when conclusions are “doubtful,” lean toward an interpretation of the Constitution that locates less power centrally. He was not afraid to lean toward allocating power centrally when the need was great, because there were still two classes of checks against abuse.

The Constitution of the United States is a Constitution of limitations and checks. The powers given up by the people for the purposes of Government, had been divided into two great classes. One of these formed the State Governments; the other, the Federal Government. The powers of the Government had been further divided into three great departments; and the Legislative department again subdivided into two independent branches. Around each of these portions of power were seen also exceptions and qualifications, as additional guards against the abuses to which power is liable. With a view to this policy of the Constitution, it could not be unreasonable, if the clauses under discussion were thought doubtful, to lean towards a construction that would limit and control the Treaty-making power, rather than towards one that would make it omnipotent.

In the Virginia Resolutions of 1798 [<http://www.yale.edu/lawweb/avalon/virres.htm>], available on the EDSITEment resource **The Avalon Project**, Madison made his strongest statement about the balance of power between the states and the federal government, writing the position of the Virginia General Assembly that the Alien and Sedition Acts were unconstitutional.

...the General Assembly doth solemnly appeal to the like dispositions of the other states, in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid, are unconstitutional; and that the necessary and

proper measures will be taken by each, for co-operating with this state, in maintaining the Authorities, Rights, and Liberties, referred to the States respectively, or to the people.

In Madison's first inaugural address [<http://www.yale.edu/lawweb/avalon/presiden/inaug/madison1.htm>], delivered on March 4, 1809 and available on the EDSITement resource **The Avalon Project**, the President, aware of the dangers of the United States being drawn into a European conflict, renewed the call for a standing army, albeit limited.

...to keep within the requisite limits a standing military force, always remembering that an armed and trained militia is the firmest bulwark of republics--that without standing armies their liberty can never be in danger, nor with large ones safe

With this evidence of hostile inflexibility in trampling on rights which no independent nation can relinquish, Congress will feel the duty of putting the United States into an armor and an attitude demanded by the crisis, and corresponding with the national spirit and expectations.

In his State of the Union address of November 1811 [<http://www.jmu.edu/madison/unionmadison1811.htm>], available via a link from the EDSITement resource **The American President**, Madison called for an increase in the military, as war against Britain loomed.

I recommend, accordingly, that adequate provisions be made for filling the ranks and prolonging the enlistments of the regular troops; for an auxiliary force to be engaged for a more limited term; for the acceptance of volunteer corps, whose patriotic ardor may court a participation in urgent services; for detachments as they may be wanted of other portions of the militia, and for such a preparation of the great body as will proportion its usefulness to its intrinsic capacities. Nor can the occasion fail to remind you of the importance of those military seminaries which in every event will form a valuable and frugal part of our military establishment.

In 1821, Madison reflected on the division of power [<http://www.jmu.edu/madison/gpos225-madison/zdivispower.htm>] (available via a link from the EDSITement resource **The American President**). He saw the balance of power between the states and the federal government as a positive, but continuing tension. Too much power to the states leads to anarchy. Too much power in the central government can lead to despotism. He appreciated the checks each had on the other and felt assured that:

...Whether the Constitution, as it has divided the powers of Government between the States in their separate and in their united capacities, tends to an oppressive aggrandizement of the General Government, or to an anarchical independence of the State Governments, is a problem which time alone can absolutely determine. It is much to be wished that the division as it exists, or may be made with the regular sanction of the people, may effectually guard against both extremes; for it cannot be doubted that an accumulation of all power in the General Government would as naturally lead to a dangerous accumulation in the Executive hands, as that the resumption of all power by the several States would end in the calamities incident to contiguous and rival

Sovereigns; to say nothing of its effect in lessening the security for sound principles of administration within each of them.

...In estimating the greater tendency in the political system of the Union to a subversion, or to a separation of the States composing it, there are some considerations to be taken into the account which have been little adverted to by the most oracular authors on the science of Government, and which are but imperfectly developed, as yet, by our own experience. Such are the size of the States, the number of them, the territorial extent of the whole, and the degree of external danger. Each of these, I am persuaded, will be found to contribute its impulse to the practical direction which our great political machine is to take.

-- *Excerpted from a letter to John G. Jackson, December 27, 1821 (Madison, 1865, III, pp. 243-247)*

In his "Notes on Nullification" (Writings of James Madison, Vol. 9, pp. 606-607), Madison stated:

A political system which does not contain an effective provision for a peaceable decision of all controversies arising within itself, would be a government in name only. Such a provision is obviously essential; and it is equally obvious that it cannot be either peaceable or effective by making every part an authoritative umpire. The final appeal in such cases must be to the authority of the whole, not to that of the parts separately and independently. This was the view taken of the subject, whilst the Constitution was under the consideration of the people. It was this view of it which dictated the clause declaring that the Constitution and laws of the U. S. should be the supreme law of the Land, anything in the... laws of any of the States to the contrary notwithstanding.

Article 6, Section 2 of the U.S. Constitution is declared the ultimate authority, trumping state judges and state constitutions.



Excerpt from James Madison's Veto Message: March 3, 1817

To the House of Representatives of the United States:

Having considered the bill this day presented to me, entitled “An act to set apart and pledge certain funds for internal improvements,” and which sets apart and pledges funds “for constructing roads and canals, and improving the navigation of water-courses in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense;” I am constrained, by the... difficulty I feel in reconciling the bill with the Constitution of the United States, to return it with that objection...

The legislative powers vested in Congress are specified and enumerated in the 8th section of the first article of the Constitution; and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers; or that it falls, by any just interpretation, within the power to make laws necessary and proper for carrying into execution those or other powers vested by the Constitution in the government of the United States.

“The power to regulate commerce among the several States,” cannot include a power to construct roads and canals...

To refer the power in question to the clause “to provide for the common defense and general welfare,” would be contrary to the established and consistent rules of interpretation... Such a view of the constitution would have the effect of giving to Congress a general power of legislation, instead of the defined and limited one; the terms “common defense and general welfare” embracing every object and act within the purview of a legislative trust. It would have the effect of subjecting both the Constitution and laws of the several States, in all cases not specifically exempted, to be superseded by laws of Congress; it being expressly declared “that the Constitution of the United States, and laws made in pursuance thereof, shall be the supreme law of the land, and the judges of every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.” Such a view of the Constitution, finally, would have the effect of excluding the judicial authority of the United States from its participation in guarding the boundary between the legislative powers of the general and the State governments...

A restriction of the power “to provide for the common defense and general welfare,” to cases which are to be provided for by the expenditure of money, would still leave within the legislative power of Congress, all the great and most important measures of government; money being the ordinary and necessary means of carrying them into execution.

If a general power to construct roads and canals, and to improve... navigation ...be not possessed by Congress, the assent of the States in the mode provided in the bill cannot confer the power. The only cases in which the consent... of particular States can extend the power of Congress, are those specified and provided for in the Constitution.

I am not unaware of the great importance of roads and canals, and the improved navigation of water-courses... But... hope that its beneficial objects may be attained by... the same wisdom and virtue in the nation which established the Constitution in its actual form, and providently marked out, in the instrument itself, a safe and practicable mode of improving it...

JAMES MADISON.

March 3, 1817



Chart for Unit Assessment

	Madison's Constitutional Position	Madison's Position on the Issue	What Happened?
First National Bank	Powers Not Specified		
Second National Bank			
Raising an Army	Balancing States and Federal Government		

Internal Improvements	Balancing Executive and Legislature		
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