

Primary Source

Thomas Jefferson's Opinion on the National Bank

During George Washington's first term as president, two members of his Cabinet, Secretary of State Thomas Jefferson and Treasury Secretary Alexander Hamilton, clashed over the power of Congress to charter a national bank. In 1791, while the bill creating the Bank of the United States was before Congress, Jefferson composed a statement for Washington's consideration arguing that the Constitution, by his reading, did not grant Congress the power to charter banks. In the following excerpt, Jefferson refutes the interpretations of the Constitution's provisions put forth by the Bank's supporters.

The incorporation of a bank, and other powers assumed by this bill, have not, in my opinion, been delegated to the United States by the constitution:

- I. They are not among the powers specially enumerated; for these are:
 1. A power to *lay taxes* for the purpose of paying the debts of the United States; but no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the constitution.
 2. "To borrow money." But this bill neither borrows money, nor insures the borrowing of it. The proprietors of the bank will be just as free as any other money-holders, to lend, or not to lend, their money to the public: the operation proposed in the bill, first to lend them two millions, and then borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by whatever name you please.
 3. "To regulate commerce with foreign nations, and among the States, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce in its bills; so does he, who makes a

bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby.

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II. Nor are they within either of the general phrases, which are the two following:

1. "To lay taxes to provide for the general welfare of the United States;" that is to say, "to lay taxes *for the purpose* of providing for the general welfare: for the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to lay taxes *ad libitum*, *for any purpose they please*; but only *to pay the debts or provide for the welfare of the Union*. In like manner, they are not *to do anything they please* to provide for the general welfare, but only *to lay taxes* for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless; it would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please. It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which will render all the others useless. Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers; and those without which, as means, those powers could not be carried into effect.

2. The second general phrase is, "to make all laws *necessary* and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank, therefore, is not necessary, and, consequently, not authorized by this phrase.

It has been much urged that a bank will give great facility or convenience, in the collection of taxes. Suppose this were true, yet the Constitution allows only the means which are "necessary," not those which are merely "convenient" for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non enumerated power, it will go to every one; for there is not one, which ingenuity may not torture into a *convenience, in some way or other, to some one* of so long a list of enumerated powers: it would swallow up all the delegated powers, and reduce the whole to one phrase, as before observed. Therefore it was that the constitution restrained them to the *necessary* means; that is to say, to those means, without which the grant of the power would be nugatory.

Source: Matthew St. Clair Clarke & David A. Hall, eds., *Legislative and Documentary History of the Bank of the United States* (Washington: Gales and Seaton, 1832), 91-93.