WEEK 3 READINGS

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Fisher Ames, “Falkland,” No. 2, 6 February 1801

…It is very much to be apprehended that the next House of Representatives in Congress will be hurried away by a democratic impulse. If the majority should be great, they will feel incited to execute the most extravagant of their plans, for which they have long sought the opportunity, conscious that this may not last long and that they may never enjoy another…

They will desire to reduce their darling theories to practice. There is in the democratic sect, which will be the prevailing one, a fanaticism that disdains argument and is mad with zeal to make converts; a presumption that disdains experience and is blind to difficulties…The people are deemed to be perfect in their intelligence and all rulers corrupted by their power. The will or the caprice or, if that could be, the vice of the people, whether regularly and distinctly known or only guessed at, is a law paramount to all laws, not excepting those of public faith and honor, of God and virtue. Hence the instructions of a representative bind him more than the constitution or his oath, his duty or conscience. With all democrats, the state of nature is still assumed as existing, each man being a sovereign invested with power which he has delegated to his representative in Congress as his ambassador, but no man is a subject even of the laws. The very name subject stinks of slavery and is disdainfully disclaimed in the gazettes of the democrats.

There is no temperate man of sense who will take the trouble to examine these gazettes for the last twelve years, who will say that any sensible or safe system of administration could be extracted from them. He will pronounce with decision that their principles are absolutely chimerical and impracticable…It has been their [the Democrats] sufficient employment to oppose all business but to do none. It has even been avowed as a salutary principle of duty thus to check the proneness of our government to extremes unfavorable to the liberty of the people…

In a word, the fundamental principle of the democratic system is to consider their own power as liberty and all other power, even that ordained by the Constitution, as despotism. Accordingly, we may expect that they will feel neither affection nor reverence for the Senate nor the departments, nor even for their democratic president, except as the head of their party, but not as president. They will profess to obey the popular prejudices and passions and rely on their cooperation to sustain their power. Of course, it will be a system of demagogy. Let it be repeated, the power gained by flattering the prejudices of the whisky, the treaty, the French, the house tax and the stamp act and sedition act mobs, and mob-meetings, must be supported as it was obtained. It is hostile to law, order, property, and government, in feeling, principle, tendency, and object.

This is the general description of the party. The detail of the measures that they will probably pursue is only a matter of conjecture. But the most fearful conjecture is corroborated by the analogy of the party here with the principles and examples of France. If they should exercise power, now they are in, with the same spirit that they have opposed while they were out, revolution and confusion have no terrors that would deter, no extremes that would stop them. Is there one principal head of legislation on which their ideas have been temperate, rational, and salutary? On the contrary, is there one on which they have not avowed and urged the wildest and most disorganizing theories of their own, and like objections to the systems devised by others? Banks, credit, finance, revenue, commerce, manufactures, fisheries, army, and navy are subjects that have afforded so many classes of absurdities. Within, they would restore chaos by the jumble of committees, instead of the heads of departments.—Without, they would court the curse of a French alliance, while they inconsistently affect to separate America from Europe and its
politics. They have tried on all momentous questions to interpret the Constitution to mean nothing and to pervert it with amendments that would make it mean less—and worse.

What, then, are we to expect from such men but the execution of their systems? But will they be able to do it? There will be impediments. Let us examine their nature. It is not the nature of democracy to stop short of extremes, and least of all in the delirium of newly acquired power. The Senate of the United States will be truly republican and a barrier against licentiousness. Such will be its disposition. But its firmness will much depend on the energy of the true federal republicans dispersed through the nation. We are to expect every method of intimidation will be used by the jacobins, as in Pennsylvania, to bend the Senate from virtue. Finding, as they will find, that these men will not change their principles, they will raise a clamor in all the federal states to change the men. This, however, will take time that is precious, because it is short—for such the reign of democracy will be...

There will also be a spirited and able minority in Congress, who will expose the bad principles and tendencies of the democratic measures. There public opinion will discern a center of light and heat. The old republican principles, the wise and tried measures and institutions of the federal administrations, will there have skillful advocates and bold champions. It cannot be that such champions will not be strongly reinforced from the sound and enlightened part of the public. New England is not democratic, and many who now think the system of the party delightful in prospect will abhor it in the trial. It cannot be tried without shaking New England to its center. All its interests and systems and even its institutions, political and religious, are such as are detested by the democrats, because they are the strong entrenchments of an enemy. Expect, then, to see them often mined and at last battered in breach.

Thomas Jefferson, First Inaugural Address, 4 March 1801

…During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which impose on strangers unused to think freely, and to speak and to write what they think; but this being now decided by the voice of the nation, announce according to the rules of the Constitution, all will, of course, arrange themselves under the will and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression. Let us then, fellow—citizens, unite with one heart and one mind; let us restore to social intercourse that harmony and affection without which liberty and even life itself are but very dreary things. And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little, if we countenance a political intolerance, as despotic, as wicked, and as capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long—lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt by some, and less by others, and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans; we are all Federalists. If there be any among us who wish to dissolve this Union, or to change its republican form, let them stand undisturbed as monuments of the safety
with which error of opinion may be tolerated, where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong, that this Government is not strong enough; but would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear, that this Government, the world’s best hope, may, by possibility, want energy to preserve itself? I trust not. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasion of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government itself. Can he, then, be trusted with the government of others? Or have we found angels, in the form of kings, to govern him? Let history answer this question.

Let us, then, with courage and confidence, pursue our own Federal and Republican principles, our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high—minded to endure the degradation of the others, possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation, entertaining a due sense of our equal right to the use of our own faculties, to the acquisition of our own industry, to honor and confidence from our fellow citizens, resulting not from birth but from our actions and their sense of them, enlightened by a benign religion, professed in deed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling Providence, which, by all its dispensations, proves that it delights in the happiness hereafter — with all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow—citizens — — a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government; and this is necessary to close the circle of our felicities.

About to enter, fellow—citizens, upon the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government and, consequently, those which ought to shape its Administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the state governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against antirepublican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people — a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism; a well—disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts, and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information, and arraignment of all abuses at the bar of the public reason; freedom of religion, freedom of the press, and freedom of person, under the protection of the habeas corpus, and trial by juries impartially selected.
These principles form the bright constellation, which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages, and blood of our heroes, have been devoted to their attainment; they should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety…

James Madison, Veto of Federal Works Bill, 3 March 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 insuperable difficulty I feel in reconciling the bill with the Constitution of the United States to return it with that objection to the House of Representatives, in which it originated.

The legislative powers vested in Congress are specified and enumerated in the eighth 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 with 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" can not include a power to construct roads and canals, and to improve the navigation of water courses in order to facilitate, promote, and secure such commerce with a latitude of construction departing from the ordinary import of the terms strengthened by the known inconveniences which doubtless led to the grant of this remedial power to Congress.

To refer the power in question to the clause "to provide for common defense and general welfare" would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follow the clause nugatory and improper. 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 hitherto understood to belong to them, 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, anything 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, inasmuch as questions relating to the general welfare, being questions of policy and expediency, are unsusceptible of judicial cognizance and decision…

I am not unaware of the great importance of roads and canals and the improved navigation of water courses, and that a power in the National Legislature to provide for them
might be exercised with signal advantage to the general prosperity. But seeing that such a power is not expressly given by the Constitution, and believing that it can not be deduced from any part of it without an inadmissible latitude of construction and reliance on insufficient precedents; believing also that the permanent success of the Constitution depends on a definite partition of powers between the General and the State Governments, and that no adequate landmarks would be left by the constructive extension of the powers of Congress as proposed in the bill, I have no option but to withhold my signature from it, and to cherishing the hope that its beneficial objects may be attained by a resort for the necessary powers to 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 as experience might suggest.

James Monroe, First Inaugural Address, 4 March 1817

…In commencing the duties of the chief executive office it has been the practice of the distinguished men who have gone before me to explain the principles which would govern them in their respective Administrations. In following their venerated example my attention is naturally drawn to the great causes which have contributed in a principal degree to produce the present happy condition of the United States. They will best explain the nature of our duties and shed much light on the policy which ought to be pursued in future...

Under this Constitution our commerce has been wisely regulated with foreign nations and between the States; new States have been admitted into our Union; our territory has been enlarged by fair and honorable treaty, and with great advantage to the original States; the States, respectively protected by the National Government under a mild, parental system against foreign dangers, and enjoying within their separate spheres, by a wise partition of power, a just proportion of the sovereignty, have improved their police, extended their settlements, and attained a strength and maturity which are the best proofs of wholesome laws well administered…

Such, then, is the happy Government under which we live — a Government adequate to every purpose for which the social compact is formed; a Government elective in all its branches, under which every citizen may by his merit obtain the highest trust recognized by the Constitution; which contains within it no cause of discord, none to put at variance one portion of the community with another; a Government which protects every citizen in the full enjoyment of his rights, and is able to protect the nation against injustice from foreign powers…

Other considerations of the highest importance admonish us to cherish our Union and to cling to the Government which supports it…Such is our peculiar felicity that there is not a part of our Union that is not particularly interested in preserving it. The great agricultural interest of the nation prospers under its protection. Local interests are not less fostered by it. Our fellow—citizens of the North engaged in navigation find great encouragement in being made the favored carriers of the vast productions of the other portions of the United States, while the inhabitants of these are amply recompensed, in their turn, by the nursery for seamen and naval force thus formed and reared up for the support of our common rights. Our manufactures find a generous encouragement by the policy which patronizes domestic industry, and the surplus of our produce a steady and profitable market by local wants in less—favored parts at home.
Such, then, being the highly favored condition of our country, it is the interest of every citizen to maintain it. What are the dangers which menace us? If any exist they ought to be ascertained and guarded against.

In explaining my sentiments on this subject it may be asked, What raised us to the present happy state? How did we accomplish the Revolution? How remedy the defects of the first instrument of our Union, by infusing into the National Government sufficient power for national purposes, without impairing the just rights of the States or affecting those of individuals? How sustain and pass with glory through the late war? The Government has been in the hands of the people. To the people, therefore, and to the faithful and able depositaries of their trust is the credit due. Had the people of the United States been educated in different principles, had they been less intelligent, less independent, or less virtuous, can it be believed that we should have maintained the same steady and consistent career or been blessed with the same success? While, then, the constituent body retains its present sound and healthful state everything will be safe. They will choose competent and faithful representatives for every department. It is only when the people become ignorant and corrupt, when they degenerate into a populace, that they are incapable of exercising the sovereignty. Usurpation is then an easy attainment, and an usurper soon found. The people themselves become the willing instruments of their own debasement and ruin. Let us, then, look to the great cause, and endeavor to preserve it in full force. Let us by all wise and constitutional measures promote intelligence among the people as the best means of preserving our liberties…

Other interests of high importance will claim attention, among which the improvement of our country by roads and canals, proceeding always with a constitutional sanction, holds a distinguished place. By thus facilitating the intercourse between the States we shall add much to the convenience and comfort of our fellow—citizens, much to the ornament of the country, and, what is of greater importance, we shall shorten distances, and, by making each part more accessible to and dependent on the other, we shall bind the Union more closely together. Nature has done so much for us by intersecting the country with so many great rivers, bays, and lakes, approaching from distant points so near to each other, that the inducement to complete the work seems to be peculiarly strong. A more interesting spectacle was perhaps never seen than is exhibited within the limits of the United States — a territory so vast and advantageously situated, containing objects so grand, so useful, so happily connected in all their parts!

Our manufacturers will likewise require the systematic and fostering care of the Government. Possessing as we do all the raw materials, the fruit of our own soil and industry, we ought not to depend in the degree we have done on supplies from other countries. While we are thus dependent the sudden event of war, unsought and unexpected, can not fail to plunge us into the most serious difficulties. It is important, too, that the capital which nourishes our manufacturers should be domestic, as its influence in that case instead of exhausting, as it may do in foreign hands, would be felt advantageously on agriculture and every other branch of industry. Equally important is it to provide at home a market for our raw materials, as by extending the competition it will enhance the price and protect the cultivator against the casualties incident to foreign markets…

Equally gratifying is it to witness the increased harmony of opinion which pervades our Union. Discord does not belong to our system. Union is recommended as well by the free and benign principles of our Government, extending its blessings to every individual, as by the other eminent advantages attending it. The American people have encountered together great dangers and sustained severe trials with success. They constitute one great family with a common
interest. Experience has enlightened us on some questions of essential importance to the country. The progress has been slow, dictated by a just reflection and a faithful regard to every interest connected with it. To promote this harmony in accord with the principles of our republican Government and in a manner to give them the most complete effect, and to advance in all other respects the best interests of our Union, will be the object of my constant and zealous exertions.

Never did a government commence under auspices so favorable, nor ever was success so complete. If we look to the history of other nations, ancient or modern, we find no example of a growth so rapid, so gigantic, of a people so prosperous and happy. In contemplating what we have still to perform, the heart of every citizen must expand with joy when he reflects how near our Government has approached to perfection; that in respect to it we have no essential improvement to make; that the great object is to preserve it in the essential principles and features which characterize it, and that is to be done by preserving the virtue and enlightening the minds of the people; and as a security against foreign dangers to adopt such arrangements as are indispensable to the support of our independence, our rights and liberties. If we persevere in the career in which we have advanced so far and in the path already traced, we can not fail, under the favor of a gracious Providence, to attain the high destiny which seems to await us…

McCulloch v. Maryland, 1819

[A summary of the case is presented first – editor]

The question submitted to the Court for their decision in this case is as to the validity of the said act of the General Assembly of Maryland on the ground of its being repugnant to the Constitution of the United States and the act of Congress aforesaid, or to one of them…

MARSHALL, Chief Justice, delivered the opinion of the Court.

In the case now to be determined, the defendant, a sovereign State, denies the obligation of a law enacted by the legislature of the Union, and the plaintiff, on his part, contests the validity of an act which has been passed by the legislature of that State. The Constitution of our country, in its most interesting and vital parts, is to be considered, the conflicting powers of the Government of the Union and of its members, as marked in that Constitution, are to be discussed, and an opinion given which may essentially influence the great operations of the Government. No tribunal can approach such a question without a deep sense of its importance, and of the awful responsibility involved in its decision. But it must be decided peacefully, or remain a source of hostile legislation, perhaps, of hostility of a still more serious nature; and if it is to be so decided, by this tribunal alone can the decision be made. On the Supreme Court of the United States has the Constitution of our country devolved this important duty.

The first question made in the cause is — has Congress power to incorporate a bank? [Marshall first determines that the national government derives its authority from the people of the United States, via the Constitution, not from the state governments – editor]

…In discussing this question, the counsel for the State of Maryland have deemed it of some importance, in the construction of the Constitution, to consider that instrument not as emanating from the people, but as the act of sovereign and independent States. The powers of the General Government, it has been said, are delegated by the States, who alone are truly sovereign, and must be exercised in subordination to the States, who alone possess supreme dominion
It would be difficult to sustain this proposition. The convention which framed the Constitution was indeed elected by the State legislatures. But the instrument, when it came from their hands, was a mere proposal, without obligation or pretensions to it. It was...submitted to the people. They acted upon it in the only manner in which they can act safely, effectively and wisely, on such a subject — by assembling in convention... 

From these conventions the Constitution derives its whole authority. The government proceeds directly from the people; is "ordained and established" in the name of the people, and is declared to be ordained, in order to form a more perfect union, establish justice, insure domestic tranquility, and secure the blessings of liberty to themselves and to their posterity. The assent of the States in their sovereign capacity is implied in calling a convention, and thus submitting that instrument to the people. But the people were at perfect liberty to accept or reject it, and their act was final. It required not the affirmance, and could not be negatived, by the State Governments. The Constitution, when thus adopted, was of complete obligation, and bound the State sovereignties...

The Government of the Union then (whatever may be the influence of this fact on the case) is, emphatically and truly, a Government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit.

[Here Marshall goes on to address the question of “enumerated” vs. “implied” powers of the national government in the Constitution — editor]

This Government is acknowledged by all to be one of enumerated powers...But the question respecting the extent of the powers actually granted is perpetually arising, and will probably continue to arise so long as our system shall exist. In discussing these questions, the conflicting powers of the General and State Governments must be brought into view, and the supremacy of their respective laws, when they are in opposition, must be settled.

If any one proposition could command the universal assent of mankind, we might expect it would be this— that the Government of the Union, though limited in its powers, is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the Government of all; its powers are delegated by all; it represents all, and acts for all. Though any one State may be willing to control its operations, no State is willing to allow others to control them. The nation, on those subjects on which it can act, must necessarily bind its component parts. But this question is not left to mere reason; the people have, in express terms, decided it by saying, "this Constitution, and the laws of the United States, which shall be made in pursuance thereof," "shall be the supreme law of the land," and by requiring that the members of the State legislatures and the officers of the executive and judicial departments of the States shall take the oath of fidelity to it. The Government of the United States, then, though limited in its powers, is supreme, and its laws, when made in pursuance of the Constitution, form the supreme law of the land, "anything in the Constitution or laws of any State to the contrary notwithstanding."

Among the enumerated powers, we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the Articles of Confederation, excludes incidental or implied powers and which requires that everything granted shall be expressly and minutely described. Even the 10th Amendment, which was framed for the purpose of quieting the excessive jealousies which had been excited, omits the word "expressly," and declares only that the powers "not delegated to the United States, nor prohibited to the States, are reserved to the States or to the people," thus leaving the question whether the particular power which may become the subject of contest has been delegated to the one Government, or
prohibited to the other, to depend on a fair construction of the whole instrument. The men who
drew and adopted this amendment had experienced the embarrassments resulting from the
insertion of this word in the Articles of Confederation, and probably omitted it to avoid those
embarrassments. A Constitution, to contain an accurate detail of all the subdivisions of which its
great powers will admit, and of all the means by which they may be carried into execution,
would partake of the prolixity of a legal code, and could scarcely be embraced by the human
mind. It would probably never be understood by the public. Its nature, therefore, requires that
only its great outlines should be marked, its important objects designated, and the minor
ingredients which compose those objects be deduced from the nature of the objects themselves…

Although, among the enumerated powers of Government, we do not find the word "bank"
or "incorporation," we find the great powers, to lay and collect taxes; to borrow money; to
regulate commerce; to declare and conduct a war; and to raise and support armies and navies.
The sword and the purse, all the external relations, and no inconsiderable portion of the industry
of the nation are in entrusted to its Government…But it may with great reason be contended that
a Government entrusted with such ample powers, on the due execution of which the happiness
and prosperity of the Nation so vitally depends, must also be entrusted with ample means for
their execution. The power being given, it is the interest of the Nation to facilitate its execution.
It can never be their interest, and cannot be presumed to have been their intention, to clog and
embarrass its execution by withholding the most appropriate means. Throughout this vast
republic, from the St. Croix to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to
be collected and expended, armies are to be marched and supported. The exigencies of the
Nation may require that the treasure raised in the north should be transported to the south that
raised in the east, conveyed to the west, or that this order should be reversed. Is that construction
of the Constitution to be preferred which would render these operations difficult, hazardous and
expensive? Can we adopt that construction (unless the words imperiously require it) which
would impute to the framers of that instrument, when granting these powers for the public good,
the intention of impeding their exercise, by withholding a choice of means? If, indeed, such be
the mandate of the Constitution, we have only to obey; but that instrument does not profess to
enumerate the means by which the powers it confers may be executed; nor does it prohibit the
creation of a corporation, if the existence of such a being be essential, to the beneficial exercise
of those powers…

The Government which has a right to do an act and has imposed on it the duty of
performing that act must, according to the dictates of reason, be allowed to select the means…

But the Constitution of the United States has not left the right of Congress to employ the
necessary means for the execution of the powers conferred on the Government to general
reasoning. To its enumeration of powers is added that of making all laws which shall be
necessary and proper for carrying into execution the foregoing powers, and all other powers
vested by this Constitution in the Government of the United States or in any department
thereof…

In ascertaining the sense in which the word "necessary" is used in this clause of the
Constitution, we may derive some aid from that with which it is associated. Congress shall have
power "to make all laws which shall be necessary and proper to carry into execution" the powers
of the Government. If the word "necessary" was used in that strict and rigorous sense for which
the counsel for the State of Maryland contend, it would be an extraordinary departure from the
usual course of the human mind, as exhibited in composition, to add a word the only possible
effect of which is to qualify that strict and rigorous meaning, to present to the mind the idea of
some choice of means of legislation not strained and compressed within the narrow limits for which gentlemen contend…

We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national legislature that discretion with respect to the means by which the powers it confers are to be carried into execution which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are Constitutional…

After the most deliberate consideration, it is the unanimous and decided opinion of this Court that the act to incorporate the Bank of the United States is a law made in pursuance of the Constitution, and is a part of the supreme law of the land…

[Marshall now addresses the question of whether a state government may tax a branch of the national bank in its territory – editor]

It being the opinion of the Court that the act incorporating the bank is constitutional, and that the power of establishing a branch in the State of Maryland might be properly exercised by the bank itself, we proceed to inquire: Whether the State of Maryland may, without violating the Constitution, tax that branch?

That the power of taxation is one of vital importance; that it is retained by the States; that it is not abridged by the grant of a similar power to the Government of the Union; that it is to be concurrently exercised by the two Governments — are truths which have never been denied…

The sovereignty of a State extends to everything which exists by its own authority or is introduced by its permission, but does it extend to those means which are employed by Congress to carry into execution powers conferred on that body by the people of the United States? We think it demonstrable that it does not. Those powers are not given by the people of a single State. They are given by the people of the United States, to a Government whose laws, made in pursuance of the Constitution, are declared to be supreme. Consequently, the people of a single State cannot confer a sovereignty which will extend over them…

If we apply the principle for which the State of Maryland contends, to the Constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the Government, and of prostrating it at the foot of the States. The American people have declared their Constitution and the laws made in pursuance thereof to be supreme, but this principle would transfer the supremacy, in fact, to the States.

If the States may tax one instrument, employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom house; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of Government. This was not intended by the American people. They did not design to make their Government dependent on the States…

The Court has bestowed on this subject its most deliberate consideration. The result is a conviction that the States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the General Government. This is, we think, the unavoidable consequence of that supremacy which the Constitution has declared.
We are unanimously of opinion that the law passed by the Legislature of Maryland, imposing a tax on the Bank of the United States is unconstitutional and void.

This opinion does not deprive the States of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State. But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the Government of the Union to carry its powers into execution. Such a tax must be unconstitutional.

John Quincy Adams, Inaugural Address, 4 March 1825

…In unfolding to my countrymen the principles by which I shall be governed in the fulfillment of those duties my first resort will be to that Constitution which I shall swear to the best of my ability to preserve, protect, and defend. That revered instrument enumerates the powers and prescribes the duties of the Executive Magistrate, and in its first words declares the purposes to which these and the whole action of the Government instituted by it should be invariably and sacredly devoted—to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to the people of this Union in their successive generations. Since the adoption of this social compact one of these generations has passed away. It is the work of our forefathers. Administered by some of the most eminent men who contributed to its formation, through a most eventful period in the annals of the world, and through all the vicissitudes of peace and war incidental to the condition of associated man, it has not disappointed the hopes and aspirations of those illustrious benefactors of their age and nation. It has promoted the lasting welfare of that country so dear to us all; it has to an extent far beyond the ordinary lot of humanity secured the freedom and happiness of this people. We now receive it as a precious inheritance from those to whom we are indebted for its establishment, doubly bound by the examples which they have left us and by the blessings which we have enjoyed as the fruits of their labors to transmit the same unimpaired to the succeeding generation…

Such is the unexaggerated picture of our condition under a Constitution founded upon the republican principle of equal rights. To admit that this picture has its shades is but to say that it is still the condition of men upon earth. From evil—physical, moral, and political—it is not our claim to be exempt. We have suffered sometimes…by dissensions among ourselves—dissensions perhaps inseparable from the enjoyment of freedom, but which have more than once appeared to threaten the dissolution of the Union, and with it the overthrow of all the enjoyments of our present lot and all our earthly hopes of the future. The causes of these dissensions have been various, founded upon differences of speculation in the theory of republican government; upon conflicting views of policy in our relations with foreign nations; upon jealousies of partial and sectional interests, aggravated by prejudices and prepossessions which strangers to each other are ever apt to entertain.

It is a source of gratification and of encouragement to me to observe that the great result of this experiment upon the theory of human rights has at the close of that generation by which it was formed been crowned with success equal to the most sanguine expectations of its founders. Union, justice, tranquillity, the common defense, the general welfare, and the blessings of
liberty—all have been promoted by the Government under which we have lived. Standing at this
point of time, looking back to that generation which has gone by and forward to that which is
advancing, we may at once indulge in grateful exultation and in cheering hope. From the
experience of the past we derive instructive lessons for the future. Of the two great political
parties which have divided the opinions and feelings of our country, the candid and the just will
now admit that both have contributed splendid talents, spotless integrity, ardent patriotism, and
disinterested sacrifices to the formation and administration of this Government, and that both
have required a liberal indulgence for a portion of human infirmity and error. The revolutionary
wars of Europe, commencing precisely at the moment when the Government of the United States
first went into operation under this Constitution, excited a collision of sentiments and of
sympathies which kindled all the passions and embittered the conflict of parties till the nation
was involved in war and the Union was shaken to its center. This time of trial embraced a period
of five and twenty years, during which the policy of the Union in its relations with Europe
constituted the principal basis of our political divisions and the most arduous part of the action of
our Federal Government. With the catastrophe in which the wars of the French Revolution
terminated, and our own subsequent peace with Great Britain, this baneful weed of party strife
was uprooted. From that time no difference of principle, connected either with the theory of
government or with our intercourse with foreign nations, has existed or been called forth in force
sufficient to sustain a continued combination of parties or to give more than wholesome
animation to public sentiment or legislative debate. Our political creed is, without a dissenting
voice that can be heard, that the will of the people is the source and the happiness of the people
the end of all legitimate government upon earth; that the best security for the beneficence and the
best guaranty against the abuse of power consists in the freedom, the purity, and the frequency of
popular elections; that the General Government of the Union and the separate governments of the
States are all sovereignties of limited powers, fellow-servants of the same masters, uncontrolled
within their respective spheres, uncontrollable by encroachments upon each other…If there have
been those who doubted whether a confederated representative democracy were a government
competent to the wise and orderly management of the common concerns of a mighty nation,
those doubts have been dispelled; if there have been projects of partial confederacies to be
erected upon the ruins of the Union, they have been scattered to the winds; if there have been
dangerous attachments to one foreign nation and antipathies against another, they have been
extinguished. Ten years of peace, at home and abroad, have assuaged the animosities of political
contention and blended into harmony the most discordant elements of public opinion. There still
remains one effort of magnanimity, one sacrifice of prejudice and passion, to be made by the
individuals throughout the nation who have heretofore followed the standards of political party.
It is that of discarding every remnant of rancor against each other, of embracing as counymen
and friends, and of yielding to talents and virtue alone that confidence which in times of
contention for principle was bestowed only upon those who bore the badge of party communion.

The collisions of party spirit which originate in speculative opinions or in different views
of administrative policy are in their nature transitory. Those which are founded on geographical
divisions, adverse interests of soil, climate, and modes of domestic life are more permanent, and
therefore, perhaps, more dangerous. It is this which gives inestimable value to the character of
our Government, at once federal and national. It holds out to us a perpetual admonition to
preserve alike and with equal anxiety the rights of each individual State in its own government
and the rights of the whole nation in that of the Union. Whatsoever is of domestic concernment,
unconnected with the other members of the Union or with foreign lands, belongs exclusively to
the administration of the State governments. Whatsoever directly involves the rights and interests of the federative fraternity or of foreign powers is of the resort of this General Government. The duties of both are obvious in the general principle, though sometimes perplexed with difficulties in the detail. To respect the rights of the State governments is the inviolable duty of that of the Union; the government of every State will feel its own obligation to respect and preserve the rights of the whole. The prejudices everywhere too commonly entertained against distant strangers are worn away, and the jealousies of jarring interests are allayed by the composition and functions of the great national councils annually assembled from all quarters of the Union at this place. Here the distinguished men from every section of our country, while meeting to deliberate upon the great interests of those by whom they are deputed, learn to estimate the talents and do justice to the virtues of each other. The harmony of the nation is promoted and the whole Union is knit together by the sentiments of mutual respect, the habits of social intercourse, and the ties of personal friendship formed between the representatives of its several parts in the performance of their service at this metropolis.

Passing from this general review of the purposes and injunctions of the Federal Constitution and their results as indicating the first traces of the path of duty in the discharge of my public trust, I turn to the Administration of my immediate predecessor as the second. It has passed away in a period of profound peace, how much to the satisfaction of our country and to the honor of our country’s name is known to you all. The great features of its policy, in general concurrence with the will of the Legislature, have been to cherish peace while preparing for defensive war; to yield exact justice to other nations and maintain the rights of our own; to cherish the principles of freedom and of equal rights wherever they were proclaimed; to discharge with all possible promptitude the national debt; to reduce within the narrowest limits of efficiency the military force; to improve the organization and discipline of the Army; to provide and sustain a school of military science; to extend equal protection to all the great interests of the nation; to promote the civilization of the Indian tribes, and to proceed in the great system of internal improvements within the limits of the constitutional power of the Union. Under the pledge of these promises, made by that eminent citizen at the time of his first induction to this office, in his career of eight years the internal taxes have been repealed; sixty millions of the public debt have been discharged; provision has been made for the comfort and relief of the aged and indigent among the surviving warriors of the Revolution; the regular armed force has been reduced and its constitution revised and perfected; the accountability for the expenditure of public moneys has been made more effective; the Floridas have been peaceably acquired, and our boundary has been extended to the Pacific Ocean; the independence of the southern nations of this hemisphere has been recognized, and recommended by example and by counsel to the potentates of Europe; progress has been made in the defense of the country by fortifications and the increase of the Navy, toward the effectual suppression of the African traffic in slaves; in alluring the aboriginal hunters of our land to the cultivation of the soil and of the mind, in exploring the interior regions of the Union, and in preparing by scientific researches and surveys for the further application of our national resources to the internal improvement of our country.

In this brief outline of the promise and performance of my immediate predecessor the line of duty for his successor is clearly delineated to pursue to their consummation those purposes of improvement in our common condition instituted or recommended by him will embrace the whole sphere of my obligations. To the topic of internal improvement, emphatically urged by him at his inauguration, I recur with peculiar satisfaction. It is that from which I am convinced that the unborn millions of our posterity who are in future ages to people this continent will
derive their most fervent gratitude to the founders of the Union; that in which the beneficent
action of its Government will be most deeply felt and acknowledged…Some diversity of opinion
has prevailed with regard to the powers of Congress for legislation upon objects of this nature.
The most respectful deference is due to doubts originating in pure patriotism and sustained by
venerated authority. But nearly twenty years have passed since the construction of the first
national road was commenced. The authority for its construction was then unquestioned. To how
many thousands of our countrymen has it proved a benefit? To what single individual has it ever
proved an injury? Repeated, liberal, and candid discussions in the Legislature have conciliated
the sentiments and approximated the opinions of enlightened minds upon the question of
constitutional power. I can not but hope that by the same process of friendly, patient, and
persevering deliberation all constitutional objections will ultimately be removed. The extent and
limitation of the powers of the General Government in relation to this transcendently important
interest will be settled and acknowledged to the common satisfaction of all, and every
speculative scruple will be solved by a practical public blessing…

Martin Van Buren to Thomas Ritchie, 13 January 1827

Dear Sir,

You will have observed an article in the Argus upon the subject of a national convention. That matter will soon be brought under discussion here & I sincerely wish you would bestow upon it some portion of your attention…It will be an important improvement & should be fully and deeply considered…

The following may, I think, justly be ranked among its probable advantages.
First, It is the best and probably the only practicable mode of concentrating the entire vote of the opposition & of effecting what is of still greater importance, the substantial reorganization of the Old Republican Party.

2nd Its first result cannot be doubtful. Mr. Adams occupying the seat and being determined not to surrender it except in extremis will not submit his pretension to the convention…I have long been satisfied that we can only get rid of the present, & restore a better state of things, by combining Genl. Jackson's personal popularity with the portion of old party feeling yet remaining. This sentiment is spreading, and would of itself be sufficient to nominate him at the Convention.

3rd The call of such a convention, its exclusive Republican character, & the refusal of Mr. Adams and his friends to become parties to it, would draw anew the old Party lines & the subsequent contest would reestablish them; state nomination alone would fall far short of that object.

4th It would greatly improve the condition of the republicans of the North & Middle States by substituting party principle for personal preference as one of the leading points in the contest. The location of the candidate would in a great degree, be merged in its consideration. Instead of the question being between a northern and Southern man, it would be whether or not the ties, which have heretofore bound together a great political party should be severed. The difference between these two questions would be found to be immense in the elective field. Altho' this is a mere Party consideration, it is not on that account less likely to be effectual, considerations of this character not unfrequently operate as efficiently as those which bear upon the most important questions of constitutional doctrine. Indeed Genl Jackson has been so little in
public life, that it will be not a little difficult to contrast his opinions in great questions with those of Mr. Adams...

5thly It would place our Republican friends in New England on new & strong grounds. They would have to decide between an indulgence in sectional & personal feelings with an entire separation from their old political friends, on the one hand, or acquiesce in the fairly expressed will of the party, on the other. In all the states the division between Republicans and Federalists is still kept up & cannot be laid aside whatever the leaders of the two parties may desire. Such a question would greatly disturb the democracy of the east. N. Hampshire I think it would give us the victory; in all New England it would give them trouble, keep them employ'd at home & check the hopes of their friends elsewhere.

6th Its effects would be highly salutary in your section of the union by the revival of old party distinctions. We must always have party distinctions and the old ones are the best of which the nature of the case admits. Political combinations between the inhabitants of the different states are unavoidable & the most natural & beneficial to the country is that between the planters of the South and the plain Republicans of the north. The country has since flourished under a party thus constituted & may again. It would take longer than our lives (even if it were practicable) to create new party feelings to keep those masses together. If the old ones are suppressed, Geographical divisions founded on local interests or, what is worse prejudices between free & slave holding states will inevitably take their place. Party attachment in former times furnished a complete antidote for sectional prejudices by producing counteracting feelings. It was not until that defense had been broken down that the clamor against Southern Influence and African Slavery could be made effectual in the North. Those in the South who assisted in producing the change are, I am satisfied, now deeply sensible of their error. Every honest Federalist of the South therefore should (and would if he duly reflected upon the subject) prefer the revival of old party feelings to any other state of things he has a right to expect. Formerly, attacks upon Southern Republicans were regarded by those of the north as assaults upon their political brethren & resented accordingly. This all powerful sympathy has been much weakened, if not destroyed by the amalgamating policy of Mr. Monroe. It can& ought to be revived and the proposed convention would be eminently serviceable in effecting that object. The failure of the last caucus furnishes no argument against a convention nor would it against an other caucus. The condition of things is essentially different. Then the south was divided, now it is united. Then we had several parties now we have in substance but two & for many other reasons. Lastly, the effect of such an nomination on General Jackson could not fail to be considerable. His election, as the result of his military services without reference to party & so far as he alone is concerned scarcely to principle would be one thing. His election as the result of a combined and concerted effort of a political party, holding in the main, to certain tenets & opposed to certain prevailing principles, might be another and a far different thing...

Andrew Jackson, “Veto of the Maysville Road Bill,” 27 May 1830

To the House of Representatives:

Gentlemen, I have maturely considered the bill proposing to authorize a "subscription of stock in the Maysville...Road Company," and now return the same to the House of Representatives, in which it originated, with my objections to its passage...

Such grants [of money by the federal government] have always been under the control of the general principle that the works which might be thus aided should be "of a general, not local,
national, not State," character. A disregard of this distinction would lead to the subversion of the federal system.... I am not able to view [the Maysville Road Bill] in any other light than as a measure of purely local character.... It has no connection with any established system of improvements; [and] is exclusively within the limits of a State [Kentucky]....

...As great as this object undoubtedly is, it is not the only one which demands the fostering care of the government. The preservation and success of the republican principle rest with us. To elevate its character and its influence rank among our most important duties, and the best means to accomplish this desirable end are those which will rivet the attachment of our citizens to the Government of their choice by the comparative lightness of their public burdens [burdens] and by the attraction which the superior success of its operations will present to the admiration and respect of the world. Through the favor of an overruling and indulgent Providence our country is blessed with a general prosperity and our citizens exempted from the pressure of taxation, which other less favored portions of the human family are obliged to bear; yet it is true that many of the taxes collected from our citizens through the medium of imposts have for a considerable period been onerous. In many particulars these taxes have borne severely upon the laboring and less prosperous classes of the community, being imposed on the necessaries of life, and this, too, in cases where the burden was not relieved by the consciousness that it would ultimately contribute to make us independent of foreign nation articles of prime necessity by the encouragement of growth and manufacture at home. They have been cheerfully borne because they were thought to be necessary to the support of government and the payments of debts unavoidably incurred in the acquisition and maintenance of our national rights and liberties. But have we a right to calculate on the same cheerful acquiescence when it is known that the necessity for their continuance would cease were it not for irregular, improvident, and unequal appropriations of public funds?

...If different impressions are entertained in any quarter; if it is expected that the people of this country, reckless of their constitutional obligations, will prefer their local interest to the principles of the Union...indeed has the world but little to hope from the example of free government. When an honest observance of constitutional compacts cannot be obtained from communities like ours, it need not be anticipated elsewhere...and the degrading truth that man is unfit for self-government admitted. And this will be the case if expediency be made a rule of construction in interpreting the Constitution. Power in no government could desire a better shield for the insidious advances which it is ever ready to make upon the checks that are designed to restrain its action...

Andrew Jackson, Veto Message of the Bank Bill, 10 July 1832

To the Senate.

The bill "to modify and continue" the act entitled "An act to incorporate the subscribers to the Bank of the United States" was presented to me on the 4th July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my
duty at an early period of my Administration to call the attention of Congress to the practicability of organizing an institution combining all its advantages and obviating these objections. I sincerely regret that in the act before me I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country…

Every monopoly and all exclusive privileges are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank must come directly or indirectly out of the earnings of the American people…

It is not conceivable how the present stockholders can have any claim to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract…

But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right not only to the favor but to the bounty of Government. It appears that more than a fourth part of the stock is held by foreigners and the residue is held by a few hundred of our own citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly…

If our Government must sell monopolies, it would seem to be its duty to take nothing less than their full value, and if gratuities must be made once in fifteen or twenty years let them not be bestowed on the subjects of a foreign government nor upon a designated and favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow-citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the bearings of the act before me upon these points I find ample reasons why it should not become a law…

In another of its bearings this provision is fraught with danger…Already is almost a third of the stock in foreign hands and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure…

Is there no danger to our liberty and independence in a bank that in its nature has so little to bind it to our country? …

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power, and managed by those whose interests, if not affections, would run in the same direction there can be no doubt. All its operations within would be in aid of the hostile fleets and armies without. Controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy and every impulse of American feeling admonishes that it should be purely American. Its stockholders should be composed exclusively of our own citizens, who at least ought to be friendly to our Government and willing to support it in times of difficulty and danger…

It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by precedent and by the decision of the Supreme Court. To this conclusion I can not assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power except where the acquiescence of the
people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been probably to those in its favor as 4 to 1. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But in the case relied upon the Supreme Court have not decided that all the features of this corporation are compatible with the Constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress; but taking into view the whole opinion of the court and the reasoning by which they have come to that conclusion, I understand them to have decided that inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the Constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "necessary" in the Constitution means needful," "requisite," "essential," "conducive to," and that "a bank" is a convenient, a useful, and essential instrument in the prosecution of the Government’s "fiscal operations," they conclude that to "use one must be within the discretion of Congress" and that "the act to incorporate the Bank of the United States is a law made in pursuance of the Constitution;" "but," say they, "where the law is not prohibited and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground."

The principle here affirmed is that the "degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional, but it is the province of the Legislature to determine whether this or that particular power, privilege, or exemption is "necessary and proper" to enable the bank to discharge its duties to the Government, and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are necessary and proper in order to enable the bank to perform conveniently and efficiently the public duties assigned to it.
as a fiscal agent, and therefore constitutional, or unnecessary and improper, and therefore unconstitutional…

It is not necessary to the receiving, safe-keeping, or transmission of the funds of the Government that the bank should possess this power, and it is not proper that Congress should thus enlarge the powers delegated to them in the Constitution…

By its silence, considered in connection with the decision of the Supreme Court in the case of McCulloch against the State of Maryland, this act takes from the States the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against Federal encroachments. Banking, like farming, manufacturing, or any other occupation or profession, is a business, the right to follow which is not originally derived from the laws. Every citizen and every company of citizens in all of our States possessed the right until the State legislatures deemed it good policy to prohibit private banking by law. If the prohibitory State laws were now repealed, every citizen would again possess the right. The State banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as in the opinion of the State legislatures the public interest requires. These corporations, unless there be an exemption in their charter, are, like private bankers and banking companies, subject to State taxation. The manner in which these taxes shall be laid depends wholly on legislative discretion. It may be upon the bank, upon the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the Constitution the States guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other object within their jurisdiction, whether persons, property, business, or professions, it was secured in as ample a manner as it was before possessed…

The principle is conceded that the States can not rightfully tax the operations of the General Government. They can not tax the money of the Government deposited in the State banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the General Government would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principal, then, are the banking establishments of the Bank of the United States and their usual banking operations to be exempted from taxation? It is not their public agency or the deposits of the Government which the States claim a right to tax, but their banks and their banking powers, instituted and exercised within State jurisdiction for their private emolument—those powers and privileges for which they pay a bonus, and which the States tax in their own banks. The exercise of these powers within a State, no matter by whom or under what authority, whether by private citizens in their original right, by corporate bodies created by the States, by foreigners or the agents of foreign governments located within their limits, forms a legitimate object of State taxation. From this and like sources, from the persons, property, and business that are found residing, located, or carried on under their jurisdiction, must the States, since the surrender of their right to raise a revenue from imports and exports, draw all the money necessary for the support of their governments and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.
It can not be necessary to the character of the bank as a fiscal agent of the Government that its private business should be exempted from that taxation to which all the State banks are liable, nor can I conceive it "proper" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government. It may be safely assumed that none of those sages who had an agency in forming or adopting our Constitution ever imagined that any portion of the taxing power of the States not prohibited to them nor delegated to Congress was to be swept away and annihilated as a means of executing certain powers delegated to Congress…

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth can not be produced by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law; but when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society-the farmers, mechanics, and laborers-who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government. There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection, and, as Heaven does its rains, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles…

Experience should teach us wisdom. Most of the difficulties our Government now encounters and most of the dangers which impend over our Union have sprung from an abandonment of the legitimate objects of Government by our national legislation, and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career to review our principles, and if possible revive that devoted patriotism and spirit of compromise which distinguished the sages of the Revolution and the fathers of our Union…

Henry Clay, Speech on President Jackson’s Veto of the Bank, 10 July 1832

…A bill to re-charter the bank has recently passed Congress after much deliberation. In this body, we know that there are members enough who entertain no constitutional scruples, to make, with the vote by which the bill was passed, a majority of two thirds. In the House of Representatives, also, it is believed, there is a like majority in favor of the bill. Notwithstanding this state of things, the president has rejected the bill, and transmitted to the Senate an elaborate message, communicating at large his objections. The Constitution requires that we should reconsider the bill, and that the question of its passage, the president’s objections notwithstanding, shall be taken by ayes and noes. Respect to him, as well as the injunctions of the Constitution, require that we should deliberately examine his reasons, and reconsider the question.
The veto is an extraordinary power, which, though tolerated by the Constitution, was not expected, by the convention, to be used in ordinary cases. It was designed for instances of precipitate legislation, in unguarded moments. Thus restricted, and it has been thus restricted by all former presidents, it might not be mischievous. During Mr. Madison’s administration of eight years, there occurred but two or three cases of its exercise. During the last administration, I do not now recollect that it was once. In a period little upward of three years, the present chief magistrate has employed the veto four times. We now hear quite frequently, in the progress of measures through Congress, the statement that the president will veto them, urged as an objection to their passage.

The veto is hardly reconcilable with the genius of representative government. It is totally irreconcilable with it, if it is to be frequently employed in respect to the expediency of measures, as well as their constitutionality…

It can not be imagined that the Convention contemplated the application of the veto, to a question which has been so long, so often, and so thoroughly scrutinized, as that of the bank of the United States, by every departments of the government, in almost every stage of its existence, and by the people, and by the State legislatures. Of all the controverted questions which have sprung up under our government, not one has been so fully investigated as that of its power to establish a bank of the United States. More than seventeen years ago, in January, 1815, Mr. Madison then said, in a message to the Senate of the United States:

"Waiving the question of the constitutional authority of the Legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the government, accompanied by indications, in different modes, of a concurrence of the general will of the nation."

Mr. Madison, himself opposed to the first bank of the United States, yielded his own convictions to those of the nation, and all the department of the government thus often expressed. Subsequently to this true but strong statement of the case, the present bank of the United States was established, and numerous other acts, of all the departments of government manifesting their settled sense of the power, have been added to those which existed prior to the date of Mr. Madison’s message…

The power to establish a bank is deduced from that clause of the Constitution which confers on Congress all powers necessary and proper to carry into effect the enumerated powers. In 1811, I believed a bank of the United States not necessary, and that a safe reliance might be placed on the local banks, in the administration of the fiscal affairs of the government. The war taught us many lessons, and among others demonstrated the necessity of the bank of the United States, to the successful operations of the government…

The interest which foreigners hold in the existing bank of the United States, is dwelt upon in the message as a serious objection to the recharter. But this interest is the result of the assignable nature of the stock; and if the objection be well founded, it applies to government stock, to the stock in local banks, in canal and other companies, created for internal improvements, and every species of money or movables in which foreigners may acquire an interest. The assignable character of the stock is a quality conferred not for the benefit of foreigners, but for that of our own citizens. And the fact of its being transferred to them is the effect of the balance of trade being against us—an evil, if it be one, which the American system will correct. All governments wanting capital resort to foreign nations possessing it in superabundance, to obtain it…The question does not depend upon the place whence the capital is
obtained, but the advantageous use of it. The confidence of foreigners in our stocks is a proof of the solidity of our credit. Foreigners have no voice in the administration of this bank; and if they buy its stock, they are obliged to submit to citizens of the United States to manage it…

The president tells us, that if the executive had been called upon to furnish the project of a bank, the duty would have been cheerfully performed; and he states that a bank, competent to all the duties which may be required by the government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States. The president is a co-ordinate branch of the legislative department. As such, bills which have passed both Houses of Congress are presented to him for his approval or rejection. The idea of going to the president for the project of a law, is totally new in the practice, and utterly contrary to the theory of the government. What should we think of the Senate calling upon the House, or the House upon the Senate, for the project of a law?

In France, the king possessed the initiative of all laws, and none could pass without its having been previously presented to one of the chambers by the crown through the ministers. Does the president wish to introduce the initiative here? Are the powers of recommendation, and that of veto, not sufficient? Must all legislation, in its commencement and in its termination concentrate in the president? When we shall have reached that state of things, the election and annual session of Congress will be a useless charge upon the people, and the whole business of government may be economically conducted by ukases and decrees…

There are some parts of this message that ought to excite deep alarm; and that especially in which the president announces, that each public officer may interpret the Constitution as he pleases. His language is, "Each public officer, who takes an oath to support the Constitution, swears that he will support it as he understands it, and not as it is understood by others." * * * "The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and on that point the president is independent of both." Now, Mr. President, I conceive, with great deference, that the president has mistaken the purport of the oath to support the Constitution of the United States. No one swears to support it as he understands it, but to support it simply as it is in truth. All men are bound to obey the laws, of which the Constitution is the supreme; but must they obey them as they are, or as they understand them? If the obligation of obedience is limited and controlled by the measure of information; in other words, if the party is bound to obey the Constitution only as he understands it; what would be the consequence? The judge of an inferior court would disobey the mandate of a superior tribunal, because it was not in conformity to the Constitution, as he understands it; a custom-house officer would disobey a circular from the Treasury department, because contrary to the Constitution, as he understands it; an American minister would disregard an instruction from the president, communicated from the Department of State, because not agreeable to the Constitution, as he understands it; and a subordinate officer in the army or navy, would violate the orders of his superior, because they were not in accordance with the Constitution, as he understands it. We should have nothing settled, nothing stable, nothing fixed. There would be general disorder and confusion throughout every branch of administration, from the highest to the lowest officers — universal nullification. For what is the doctrine of the president but that of South Carolina applied throughout the Union? The president independent both of Congress and the Supreme Court! only bound to execute the laws of the one and the decisions of the other, as far as they conform to the Constitution of the United States, as far as he understands it! Then it should be the duty of every president, on his installation into office, to carefully examine all the acts in the statute book, approved by his predecessors, and mark out those which he was resolved not to
execute, and to which he meant to apply this new species of veto, because they were repugnant to the Constitution as he understands it. And, after the expiration of every term of the Supreme Court, he should send for the record of its decisions, and discriminate between those which he would, and those which he would not, execute, because they were or were not agreeable to the Constitution, as he understands it…

The message presents some striking instances of discrepancy. First, it contests the right to establish one bank, and objects to the bill that it limits and restrains the power of Congress to establish several. Second, it urges that the bill does not recognize the power of State taxation generally; and complains that facilities are afforded to the exercise of that power in respect to the stock held by individuals. Third, it objects that any bonus is taken, and insists that not enough is demanded. And fourth, it complains that foreigners have too much influence, and that stock transferred loses the privilege of representation in the elections of the bank, which, if it were retained, would give them more.

Mr. President, we are about to close one of the longest and most arduous sessions of Congress under the present Constitution; and when we return among our constituents, what account of the operations of their government shall we be bound to communicate? We shall be compelled to say, that the Supreme Court is paralyzed…that the veto has been applied to the bank of the United States, our only reliance for a sound and uniform currency; that the Senate has been violently attacked for the exercise of a clear constitutional power; that the House of Representatives have been unnecessarily assailed; and that the president has promulgated a rule of action for those who have taken the oath to support the Constitution of the United States, that must, if there be practical conformity to it, introduce general nullification, and end in the absolute subversion of the government.

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**Source:** Senate.gov
Vetoes cast

George Washington

- The Apportionment Bill, vetoed April 5, 1792, on constitutional grounds.
- A Bill to alter and amend an Act entitled, "An Act to ascertain and fix the military establishment of the United States", vetoed February 28, 1797, on the advice of Secretary of War James McHenry.

John Adams

- No vetoes

Thomas Jefferson

- No vetoes

James Madison

Five vetoes, all on constitutional grounds

- An act incorporating the Protestant Episcopal Church in the town of Alexandria in the District of Columbia, vetoed February 21, 1811. The bill provided for the incorporation of an Episcopal church in Alexandria into the District of Columbia. Madison vetoed it on the ground that it violated the Establishment Clause.
- 3. The Bonus Bill (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 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), vetoed March 3, 1817. The bill was sponsored by John C. Calhoun and provided for internal improvements using surplus funds from the Second Bank of the United States. Madison vetoed on constitutional grounds.

James Monroe

One veto

- The Cumberland Road Bill (An act for the preservation and repair of the Cumberland road), vetoed May 4, 1822. Monroe wrote in his veto message that "A power to establish turnpikes with gates and tolls, and to enforce the collection of tolls by penalties, implies a power to adopt and execute a complete system of internal improvement," which he believed was unconstitutional.

John Quincy Adams

- No vetoes.
Ronald Reagan

- 1981: Pocket-vetoed changes to federal bankruptcy law.
- 1984: Vetoed a bill allowing a water resources research program to continue. It was overridden.
- 1984: Vetoed a bill to increase funds for public broadcasting and establish public telecommunications facilities. Later that year he used a pocket veto to stop another attempt to increase public broadcasting funding.
- 1985: Vetoed funding for famine relief in Africa.
- 1985: Vetoed changes to the laws authorizing the National Institutes of Health. It was overridden.
- 1986: Vetoed a bill prohibiting the sale of defense materials and services to Saudi Arabia. It was sustained by one vote.
- 1986: Vetoed The Comprehensive Anti-Apartheid Act of 1986, a bill imposing economic sanctions against South Africa. It was overridden.
- 1986: Pocket-vetoed a bill to stop the Clean Water Act from being amended.
- 1987: Vetoed changes to the Federal Water Pollution Control Act. It was overridden.
- 1987: Vetoed a bill providing funding for highway construction. It was overridden.
- 1988: Vetoed changes to restore the scope of various civil rights laws. It was overridden.
- 1988: Pocket-vetoed a bill to establish a nutrition monitoring program.
- 1988: Used the pocket veto on a bill reinstating laws on advertising during children's television.

George H.W. Bush

- 1989: Vetoed an increase in the minimum wage.
- October 22, 1990 - Bush vetoed S. 2104 which served "To amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment."
- 1991: Vetoed a spending bill for the Labor, Health and Human Services and Education departments because of language on funding abortions.
- 1992: Vetoed another bill to make employers provide family medical leaves.
- 1992: Vetoed a bill on cable television competition. It was overridden.

Bill Clinton

- 1995: Vetoed a bill on private securities litigation. It was overridden.
- 1997: Vetoed another attempt to ban partial-birth abortion.
- 1997: Vetoed a bill to restore military spending that he had removed using a line-item veto. It was overridden.
- 2000: Vetoed a bill to abolish federal inheritance taxes.
- 2000: Pocket-vetoed a bill to change bankruptcy laws.
George W. Bush

**Abraham Lincoln, “The Perpetuation of Our Political Institutions,” 27 January 1838**

Address to the Young Men’s Lyceum of Springfield, Illinois

As a subject for the remarks of the evening, the perpetuation of our political institutions, is selected.

In the great journal of things happening under the sun, we, the American People, find our account running, under date of the nineteenth century of the Christian era…We find ourselves under the government of a system of political institutions, conducing more essentially to the ends of civil and religious liberty, than any of which the history of former times tells us. We, when mounting the stage of existence, found ourselves the legal inheritors of these fundamental blessings. We toiled not in the acquirement or establishment of them—they are a legacy bequeathed us, by a once hardy, brave, and patriotic, but now lamented and departed race of ancestors. Theirs was the task (and nobly they performed it) to possess themselves, and through themselves, us, of this goodly land; and to uprear upon its hills and its valleys, a political edifice of liberty and equal rights; ’tis ours only, to transmit these, the former, unprofaned by the foot of an invader; the latter, undecayed by the lapse of time, and untorn by usurpation—to the latest generation that fate shall permit the world to know. This task of gratitude to our fathers, justice to ourselves, duty to posterity, and love for our species in general, all imperatively require us faithfully to perform.

How, then, shall we perform it? At what point shall we expect the approach of danger? …I answer, if it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide.

I hope I am over wary; but if I am not, there is, even now, something of ill-omen amongst us. I mean the increasing disregard for law which pervades the country; the growing disposition to substitute the wild and furious passions, in lieu of the sober judgement of Courts; and the worse than savage mobs, for the executive ministers of justice. This disposition is awfully fearful in any community; and that it now exists in ours, though grating to our feelings to admit, it would be a violation of truth, and an insult to our intelligence, to deny. Accounts of outrages committed by mobs, form the every-day news of the times. They have pervaded the country, from New England to Louisiana…

It would be tedious, as well as useless, to recount the horrors of all of them. Those happening in the State of Mississippi, and at St. Louis, are, perhaps, the most dangerous in example, and revolting to humanity. In the Mississippi case, they first commenced by hanging the regular gamblers: a set of men, certainly not following for a livelihood, a very useful, or very honest occupation; but one which, so far from being forbidden by the laws, was actually licensed by an act of the Legislature, passed but a single year before. Next, negroes, suspected of conspiring to raise an insurrection, were caught up and hanged in all parts of the State: then, white men, supposed to be leagued with the negroes; and finally, strangers, from neighboring States, going thither on business, were, in many instances, subjected to the same fate. Thus went
on this process of hanging, from gamblers to negroes, from negroes to white citizens, and from these to strangers; till, dead men were seen literally dangling from the boughs of trees upon every road side; and in numbers almost sufficient, to rival the native Spanish moss of the country, as a drapery of the forest.

Turn, then, to that horror-striking scene at St. Louis. A single victim was only sacrificed there. His story is very short; and is, perhaps, the most highly tragic, of any thing of its length, that has ever been witnessed in real life. A mulatto man, by the name of McIntosh, was seized in the street, dragged to the suburbs of the city, chained to a tree, and actually burned to death; and all within a single hour from the time he had been a freeman, attending to his own business, and at peace with the world.

Such are the effects of mob law; and such are the scenes, becoming more and more frequent in this land so lately famed for love of law and order; and the stories of which, have even now grown too familiar, to attract any thing more, than an idle remark.

But you are, perhaps, ready to ask, "What has this to do with the perpetuation of our political institutions?" I answer, it has much to do with it. Its direct consequences are, comparatively speaking, but a small evil; and much of its danger consists, in the proneness of our minds, to regard its direct, as its only consequences. Abstractly considered, the hanging of the gamblers at Vicksburg, was of but little consequence. They constitute a portion of population, that is worse than useless in any community; and their death, if no pernicious example be set by it, is never matter of reasonable regret with any one. If they were annually swept, from the stage of existence, by the plague or small pox, honest men would, perhaps, be much profited, by the operation. Similar too, is the correct reasoning, in regard to the burning of the negro at St. Louis. He had forfeited his life, by the perpetration of an outrageous murder, upon one of the most worthy and respectable citizens of the city; and had he not died as he did, he must have died by the sentence of the law, in a very short time afterwards. As to him alone, it was as well the way it was, as it could otherwise have been. But the example in either case, was fearful. When men take it in their heads to day, to hang gamblers, or burn murderers, they should recollect, that, in the confusion usually attending such transactions, they will be as likely to hang or burn some one, who is neither a gambler nor a murderer as one who is; and that, acting upon the example they set, the mob of to-morrow, may, and probably will, hang or burn some of them, by the very same mistake. And not only so; the innocent, those who have ever set their faces against violations of law in every shape, alike with the guilty, fall victims to the ravages of mob law; and thus it goes on, step by step, till all the walls erected for the defence of the persons and property of individuals, are trodden down, and disregarded. But all this even, is not the full extent of the evil. By such examples, by instances of the perpetrators of such acts going unpunished, the lawless in spirit, are encouraged to become lawless in practice; and having been used to no restraint, but dread of punishment, they thus become, absolutely unrestrained. Having ever regarded Government as their deadliest bane, they make a jubilee of the suspension of its operations; and pray for nothing so much, as its total annihilation. While, on the other hand, good men, men who love tranquility, who desire to abide by the laws, and enjoy their benefits, who would gladly spill their blood in the defence of their country; seeing their property destroyed; their families insulted, and their lives endangered; their persons injured; and seeing nothing in prospect that forebodes a change for the better; become tired of, and disgusted with, a Government that offers them no protection; and are not much averse to a change in which they imagine they have nothing to lose. Thus, then, by the operation of this mobocratic spirit, which all must admit, is now abroad in the land, the strongest bulwark of any Government, and particularly of those
constituted like ours, may effectually be broken down and destroyed—I mean the attachment of
the People. Whenever this effect shall be produced among us; whenever the vicious portion of
population shall be permitted to gather in bands of hundreds and thousands, and burn churches,
ravage and rob provision stores, throw printing presses into rivers, shoot editors, and hang and
burn obnoxious persons at pleasure, and with impunity; depend on it, this Government cannot
last. By such things, the feelings of the best citizens will become more or less alienated from it;
and thus it will be left without friends, or with too few, and those few too weak, to make their
friendship effectual. At such a time and under such circumstances, men of sufficient talent and
ambition will not be wanting to seize the opportunity, strike the blow, and overturn that fair
fabric, which for the last half century, has been the fondest hope, of the lovers of freedom,
throughout the world…

The question recurs "how shall we fortify against it?" The answer is simple. Let every
American, every lover of liberty, every well wisher to his posterity, swear by the blood of the
Revolution, never to violate in the least particular, the laws of the country; and never to tolerate
their violation by others. As the patriots of seventy-six did to the support of the Declaration of
Independence, so to the support of the Constitution and Laws, let every American pledge his life,
his property, and his sacred honor;—let every man remember that to violate the law, is to trample
on the blood of his father, and to tear the character of his own, and his children’s liberty. Let
reverence for the laws, be breathed by every American mother, to the lisping babe, that prattles
on her lap—let it be taught in schools, in seminaries, and in colleges;—let it be written in
Primers, spelling books, and in Almanacs;—let it be preached from the pulpit, proclaimed in
legislative halls, and enforced in courts of justice. And, in short, let it become the political
religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay,
of all sexes and tongues, and colors and conditions, sacrifice unceasingly upon its altars.

While ever a state of feeling, such as this, shall universally, or even, very generally
prevail throughout the nation, vain will be every effort, and fruitless every attempt, to subvert our
national freedom.

When I so pressingly urge a strict observance of all the laws, let me not be understood as
saying there are no bad laws, nor that grievances may not arise, for the redress of which, no legal
provisions have been made. I mean to say no such thing. But I do mean to say, that, although bad
laws, if they exist, should be repealed as soon as possible, still while they continue in force, for
the sake of example, they should be religiously observed. So also in unprovided cases. If such
arise, let proper legal provisions be made for them with the least possible delay; but, till then, let
them if not too intolerable, be borne with…

Abraham Lincoln, Speech on the Sub-Treasury, 26 December 1839

FELLOW CITIZENS…

The subject heretofore, and now to be discussed, is the Sub-Treasury scheme of the
present Administration, as a means of collecting, safe-keeping, transferring and disbursing the
revenues of the Nation, as contrasted with a National Bank for the same purposes. Mr. Douglass
has said that we (the Whigs), have not dared to meet them (the Locos), in argument on this
question. I protest against this assertion. I assert that we have again and again, during this
discussion, urged facts and arguments against the Sub-Treasury, which they have neither dared
to deny nor attempted to answer…
Of the Sub-Treasury then, as contrasted with a National Bank, for the before enumerated purposes, I lay down the following propositions, to wit:

1st. It will injuriously affect the community by its operation on the circulating medium.
2d. It will be a more expensive fiscal agent.
3d. It will be a less secure depository of the public money.

To show the truth of the first proposition, let us take a short review of our condition under the operation of a National Bank. It was the depository of the public revenues. Between the collection of those revenues and the disbursements of them by the government, the Bank was permitted to, and did actually loan them out to individuals, and hence the large amount of money annually collected for revenue purposes, which by any other plan would have been idle a great portion of time, was kept almost constantly in circulation. Any person who will reflect, that money is only valuable while in circulation, will readily perceive, that any device which will keep the government revenues, in constant circulation, instead of being locked up in idleness, is no inconsiderable advantage.

By the Sub-Treasury, the revenue is to be collected, and kept in iron boxes until the government wants it for disbursement; thus robbing the people of the use of it, while the government does not itself need it, and while the money is performing no nobler office than that of rusting in iron boxes. The natural effect of this change of policy, every one will see, is to reduce the quantity of money in circulation…

The man who has purchased any article, say a horse, on credit, at 100 dollars, when there are 200 millions circulating in the country, if the quantity be reduced to 100 millions by the arrival of pay-day, will find the horse but sufficient to pay half the debt; and the other half must either be paid out of his other means, and thereby become a clear loss to him; or go unpaid, and thereby become a clear loss to his creditor. What I have here said of a single case of the purchase of a horse, will hold good in every case of a debt existing at the time a reduction in the quantity of money occurs, by whomsoever, and for whatsoever it may have been contracted…

I now leave the proposition as to the effect of the Sub-Treasury upon the currency of the country, and pass to that relative to the additional expense which must be incurred by it over that incurred by a National Bank, as a fiscal agent of the Government. By the late National Bank, we had the public revenue received, safely kept, transferred and disbursed, not only without expense, but we actually received of the Bank $75,000 annually for its privileges, while rendering us those services. By the Sub-Treasury, according to the estimate of the Secretary of the Treasury, who is the warm advocate of the system and which estimate is the lowest made by any one, the same services are to cost $60,000. Mr. Rives, who, to say the least, is equally talented and honest, estimates that these services, under the Sub-Treasury system, cannot cost less than $600,000. For the sake of liberality, let us suppose that the estimates of the Secretary and Mr. Rives, are the two extremes, and that their mean is about the true estimate, and we shall then find, that when to that sum is added the $75,000, which the Bank paid us, the difference between the two systems, in favor of the Bank, and against the Sub-Treasury, is $405,000 a year. This sum, though small when compared to the many millions annually expended by the General Government, is, when viewed by itself, very large; and much too large, when viewed in any light, to be thrown away once a year for nothing. It is sufficient to pay the pensions of more than 4,000 Revolutionary Soldiers, or to purchase a 40-acre tract of Government land, for each one of more than 8,000 poor families…

As a sweeping objection to a National Bank, and consequently an argument in favor of the Sub-Treasury as a substitute for it, it often has been urged, and doubtless will be again, that...
such a bank is unconstitutional. We have often heretofore shown, and therefore need not in detail do so again, that a majority of the Revolutionary patriarchs, whoever acted officially upon the question, commencing with Gen. Washington and embracing Gen. Jackson, the larger number of the signers of the Declaration, and of the framers of the Constitution, who were in the Congress of 1791, have decided upon their oaths that such a bank is constitutional. We have also shown that the votes of Congress have more often been in favor of than against its constitutionality. In addition to all this we have shown that the Supreme Court—that tribunal which the Constitution has itself established to decide Constitutional questions—has solemnly decided that such a bank is constitutional. Protesting that these authorities ought to settle the question—ought to be conclusive, I will not urge them further now. I now propose to take a view of the question which I have not known to be taken by anyone before. It is, that whatever objection ever has or ever can be made to the constitutionality of a bank, will apply with equal force in its whole length, breadth and proportions to the Sub-Treasury. Our opponents say, there is no express authority in the Constitution to establish a Bank, and therefore a Bank is unconstitutional; but we, with equal truth, may say, there is no express authority in the Constitution to establish a Sub-Treasury, and therefore a Sub-Treasury is unconstitutional. Who then, has the advantage of this “express authority” argument? Does it not cut equally both ways? Does it not wound them as deeply and as deadly as it does us?

Our position is that both are constitutional. The Constitution enumerates expressly several powers which Congress may exercise, superadded to which is a general authority "to make all laws necessary and proper," for carrying into effect all the powers vested by the Constitution of the Government of the United States. One of the express powers given Congress, is "To lay and collect taxes; duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare of the United States." Now, Congress is expressly authorized to make all laws necessary and proper for carrying this power into execution. To carry it into execution, it is indispensably necessary to collect, safely keep, transfer, and disburse a revenue. To do this, a Bank is "necessary and proper." But, say our opponents, to authorize the making of a Bank, the necessity must be so great, that the power just recited, would be nugatory without it; and that that necessity is expressly negatived by the fact, that they have got along ten whole years without such a Bank. Immediately we turn on them, and say, that that sort of necessity for a Sub-Treasury does not exist, because we have got along forty whole years without one. And this time, it may be observed, that we are not merely equal with them in the argument, but we beat them forty to ten, or which is the same thing, four to one. On examination, it will be found, that the absurd rule, which prescribes that before we can constitutionally adopt a National Bank as a fiscal agent, we must show an indispensable necessity for it, will exclude every sort of fiscal agent that the mind of man can conceive. A Bank is not indispensable, because we can take the Sub-Treasury; the Sub-Treasury is not indispensable because we can take the Bank. The rule is too absurd to need further comment. Upon the phrase "necessary and proper," in the Constitution, it seems to me more reasonable to say, that some fiscal agent is indispensably necessary; but, inasmuch as no particular sort of agent is thus indispensable, because some other sort might be adopted, we are left to choose that sort of agent, which may be most "proper" on grounds of expediency…
Abraham Lincoln, Speech on Internal Improvements, 20 June 1848

...At an early day of this session the president sent us what may properly be called an internal improvement veto message. The late democratic convention which sat at Baltimore, and which nominated Gen: Cass for the presidency, adopted a set of resolutions, now called the democratic platform, among which is one in these words:

``"That the constitution does not confer upon the general government the power to commence, and carry on a general system of internal improvements..."

These things, taken together, show that the question of internal improvements is now more distinctly made---has become more intense---than at any former period. It can no longer be avoided. The veto message, and the Baltimore resolution, I understand to be, in substance, the same thing...This being the case, the question of improvements is verging to a final crisis; and the friends of the policy must now battle, and battle manfully, or surrender all. In this view, humble as I am, I wish to review, and contest as well as I may, the general positions of this veto message...

Those general positions are: That internal improvements ought not to be made by the general government---
1. Because they would overwhelm the Treasury.
2. Because, while their burthens would be general, their benefits would be local and partial; involving an obnoxious inequality--- and
3. Because they would be unconstitutional.
4. Because the states may do enough by the levy and collection of tonnage duties---or if not
5. That the constitution may be amended.
``Do nothing at all, lest you do something wrong'' is the sum of these positions---is the sum of this message. And this, with the exception of what is said about constitutionality, applying as forcibly to making improvements by state authority, as by the national authority. So that we must abandon the improvements of the country altogether, by any, and every authority, or we must resist, and repudiate the doctrines of this message. Let us attempt the latter.

The first position is, that a system of internal improvements would overwhelm the treasury.

That, in such a system there is a tendency to undue expansion, is not to be denied. Such tendency is founded in the nature of the subject. A member of congress will prefer voting for a bill which contains an appropriation for his district, to voting for one which does not; and when a bill shall be expanded till every district shall be provided for, that it will be too greatly expanded, is obvious. But is this any more true in congress, than in a state legislature? If a member of congress must have an appropriation for his district, so, a member of a legislature must have one for his county. And if one will overwhelm the national treasury, so the other will overwhelm the state treasury. Go where we will, the difficulty is the same. Allow it to drive us from the halls of congress, and it will, just as easily, drive us from the state legislatures...

Now for the second position of the message, namely, that the burthens of improvements would be general, while their benefits would [be] local and partial, involving an obnoxious inequality. That there is some degree of truth in this position, I shall not deny. No commercial object of government patronage can be so exclusively general, as to not be of some peculiar local advantage; but, on the other hand, nothing is so local, as to not be of some general advantage...
Take, for instance, the Illinois and Michigan canal. Considered apart from it's effects, it is perfectly local. Every inch of it is within the state of Illinois. That canal was first opened for business last April. In a very few days we were all gratified to learn, among other things, that sugar had been carried from New-Orleans through this canal to Buffalo in New-York. This sugar took this route, doubtless because it was cheaper than the old route. Supposing the benefit of the reduction in the cost of carriage to be shared between seller and buyer, the result is, that the New Orleans merchant sold his sugar a little dearer; and the people of Buffalo sweetened their coffee a little cheaper, than before—a benefit resulting from the canal, not to Illinois where the canal is, but to Louisiana and New-York where it is not. In other transactions Illinois will, of course, have her share, and perhaps the larger share too, in the benefits of the canal; but the instance of the sugar clearly shows that the benefits of an improvement, are by no means confined to the particular locality of the improvement itself.

The just conclusion from all this is, that if the nation refuse to make improvements, of the more general kind, because their benefits may be somewhat local, a state may, for the same reason, refuse to make an improvement of a local kind, because it's benefits may be somewhat general. A state may well say to the nation "If you will do nothing for me, I will do nothing for you." Thus it is seen, that if this argument of "inequality" is sufficient any where,—it is sufficient everywhere; and puts an end to improvements altogether...

But suppose, after all, there should be some degree of inequality. Inequality is certainly never to be embraced for it's own sake; but is every good thing to be discarded, which may be inseparably connected with some degree of it? If so, we must discard all government. This capitol is built at the public expense, for the public benefit[,] but does any one doubt that it is of some peculiar local advantage to the property holders, and business people of Washington? Shall we remove it for this reason? and if so, where shall we set it down, and be free from the difficulty?...An honest laborer digs coal at about seventy cents a day, while the president digs abstractions at about seventy dollars a day. The coal is clearly worth more than the abstractions, and yet what a monstrous inequality in the prices! Does the president, for this reason, propose to abolish the presidency? He does not, and he ought not. The true rule, in determining to embrace, or reject any thing, is not whether it have any evil in it; but whether it have more of evil, than of good. There are few things wholly evil, or wholly good. Almost every thing, especially of governmental policy, is an inseparable compound of the two; so that our best judgment of the preponderance between them is continually demanded. On this principle the president, his friends, and the world generally, act on most subjects. Why not apply it, then, upon this question? Why, as to improvements, magnify the evil, and stoutly refuse to see any good in them?...

**Democratic Party Platform of 1848**

Resolved, That the American Democracy place their trust in the intelligence, the patriotism, and the discriminating justice of the American people.

Resolved, That we regard this as a distinctive feature of our political creed, which we are proud to maintain before the world as the great moral element in a form of government springing from and upheld by the popular will; and we contrast it with the creed and practice of Federalism, under whatever name or form, which seeks to palsy the will of the constituent, and which conceives no imposture too monstrous for the popular credulity.
Resolved, therefore, That, entertaining these views, the Democratic party of this Union, through their Delegates assembled in general convention of the States, coming together in a spirit of concord, of devotion to the doctrines and faith of a free representative government, and appealing to their fellow-citizens for the rectitude of their intentions, renew and reassert before the American people the declaration of principles avowed by them when, on a former occasion, in general convention, they presented their candidates for the popular suffrage.

1. That the Federal Government is one of limited powers, derived solely from the Constitution; and the grants of power shown therein ought to be strictly construed by all the departments and agents of the Government; and that it is inexpedient and dangerous to exercise doubtful constitutional powers.

2. That the Constitution does not confer upon the General Government the power to commence and carry on a general system of internal improvements.

3. That the Constitution does not confer authority upon the Federal Government, directly or indirectly, to assume the debts of the several States, contracted for local internal improvements, or other State purposes; nor would such assumption be just and expedient.

4. That justice and sound policy forbid the Federal Government to foster one branch of industry to the detriment of another, or to cherish the interests of one portion to the injury of another portion of our common country; that every citizen, and every section of the country, has a right to demand and insist upon an equality of rights and privileges, and to complete and ample protection of persons and property from domestic violence or foreign aggression.

5. That it is the duty of every branch of the Government to enforce and practice the most rigid economy in conducting our public affairs, and that no more revenue ought to be raised than is required to defray the necessary expenses of the Government, and for the gradual but certain extinction of the debt created by the prosecution of a just and necessary war, after peaceful relations shall have been restored.

6. That Congress has no power to charter a national bank; that we believe such an institution one of deadly hostility to the best interests of the country, dangerous to our republican institutions and the liberties of the people, and calculated to place the business of the country within the control of a concentrated money power, and above the laws and the will of the people; and that the results of Democratic legislation, in this and all other financial measures upon which issues have been made between the two political parties of the country, have demonstrated to candid and practical men of all parties, their soundness, safety, and utility in all business pursuits.

7. That Congress has no power under the Constitution to interfere with or control the domestic institutions of the several States, and that such States are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the Constitution; that all efforts of the Abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanence of the Union, and ought not to be countenanced by any friend to our political institutions.

8. That the separation of the moneys of the Government from banking institutions is indispensable for the safety of the funds of the Government and the rights of the people.

9. That the liberal principles embodied by Jefferson in the Declaration of Independence, and sanctioned in the Constitution, which makes ours the land of liberty, and the asylum of the oppressed of every nation, have ever been cardinal principles in the Democratic faith, and every
attempt to abridge the present privilege of becoming citizens and the owners of soil among us, ought to be resisted with the same spirit which swept the alien and sedition laws from our statute book.

Resolved, That the proceeds of the public lands ought to be sacredly applied to the national object specified in the Constitution; and that we are opposed to any law for the distribution of such proceeds among the States, as alike inexpedient in policy and repugnant to the Constitution.

Resolved, That we are decidedly opposed to taking from the President the qualified veto power, by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interests, to suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives, until the judgment of the people can be obtained thereon, and which has saved the American people from the corrupt and tyrannical domination of the Bank of the United States, and from a corrupting system of general internal improvements.

Resolved, That the war with Mexico, provoked on her part by years of insult and injury, was commenced by her army crossing the Rio Grande, attacking the American troops, and invading our sister State of Texas; and that, upon all the principles of patriotism and laws of nations, it is a just and necessary war on our part, in which every American citizen should have shown himself on the side of his country, and neither morally nor physically, by word or by deed, have given "aid and comfort to the enemy."

Resolved, That we would be rejoiced at the assurance of peace with Mexico founded on the just principles of indemnity for the past and security for the future; but that, while the ratification of the liberal treaty offered to Mexico remains in doubt, it is the duty of the country to sustain the administration in every measure necessary to provide for the vigorous prosecution of the war, should that treaty be rejected.

Resolved, That the officers and soldiers who have carried the arms of their country into Mexico, have crowned it with imperishable glory. Their unconquerable courage, their daring enterprise, their unrelenting perseverance and fortitude when assailed on all sides by innumerable foes, and that more formidable enemy, the diseases of the climate, exalt their devoted patriotism into the highest heroism, and give them a right to the profound gratitude of their country, and the admiration of the world.

Resolved, That the Democratic National Convention of the thirty States composing the American Republic, tender their fraternal congratulations to the National Convention of the Republic of France, now assembled as the free-suffrage representatives of the sovereignty of thirty-five millions of republicans, to establish government on those eternal principles of equal rights for which their Lafayette and our Washington fought side by side in the struggle for our own national independence; and we would especially convey to them, and to the whole people of France, our earnest wishes for the consolidation of their liberties, through the wisdom that shall guide their counsels, on the basis of a democratic constitution, not derived from grants or concessions of kings or parliaments, but originating from the only true source of political power recognized in the States of this Union, the inherent and inalienable right of the people, in their sovereign capacity, to make and to amend their forms of government in such manner as the welfare of the community may require.

Resolved, That in view of the recent development of the grand political truth, of the sovereignty of the people, and their capacity and power for self-government, which is prostrating thrones and erecting republics on the ruins of despotism in the Old World, we feel that a high
and sacred duty is devolved, with increased responsibility, upon the Democratic party of this country, as the party of the people, to sustain and advance among us constitutional "liberty, equality, and fraternity," by continuing to resist all monopolies and exclusive legislation for the benefit of the few at the expense of the many, and by a vigilant and constant adherence to those principles and compromises of the Constitution which are broad enough and strong enough to embrace and uphold the Union as it was, the Union as it is, and the Union as it shall be, in the full expansion of the energies and capacity of this great and progressive people.

Voted, That a copy of these resolutions be forwarded, through the American Minister at Paris, to the National Convention of the Republic of France.

Resolved, That the fruits of the great political triumph of 1844, which elected James K. Polk and George M. Dallas President and Vice-President of the United States, have fulfilled the hopes of the Democracy of the Union—in defeating the declared purposes of their opponents to create a national bank; in preventing the corrupt and unconstitutional distribution of the land proceeds, from the common treasury of the Union, for local purposes; in protecting the currency and the labor of the country from ruinous fluctuations, and guarding the money of the people for the use of the people, by the establishment of the constitutional treasury; in the noble impulse given to the cause of free trade, by the repeal of the tariff in 1842 and the creation of the more equal, honest, and productive tariff of 1846; and that, in our opinion, it would be a fatal error to weaken the bands of political organization by which these great reforms have been achieved, and risk them in the hands of their known adversaries, with whatever delusive appeals they may solicit our surrender of that vigilance, which is the only safeguard of liberty.

Resolved, That the confidence of the Democracy of the Union in the principles, capacity, firmness, and integrity of James K. Polk, manifested by his nomination and election in 1844, has been signally justified by the strictness of his adherence to sound Democratic doctrines, by the purity of purpose, the energy and ability which have characterized his administration in all our affairs at home and abroad; that we tender to him our cordial congratulations upon the brilliant success which has hitherto crowned his patriotic efforts, and assure him, that at the expiration of his Presidential term, he will carry with him to his retirement the esteem, respect, and admiration of a grateful country.

Resolved, That this Convention hereby present to the people of the United States, Lewis Cass, of Michigan, as the candidate of the Democratic party for the office of President, and William O. Butler, of Kentucky, as the candidate of the Democratic party for the office of Vice-President of the United States.

Whig Party Platform of 1848

1. Resolved, That the Whigs of the United States, here assembled by their Representatives, heartily ratify the nominations of General Zachary Taylor as President and Millard Fillmore as Vice-President of the United States, and pledge themselves to their support.

2. Resolved, That the choice of General Taylor as the Whig candidate for President we are glad to discover sympathy with a great popular sentiment throughout the nation—a sentiment which, having its origin in admiration of great military success, has been strengthened by the development, in every action and every word, of sound conservative opinions, and of true fidelity to the great example of former days, and to the principles of the Constitution as administered by its founders.
3. Resolved, That General Taylor, in saying that, had he voted in 1844, he would have voted the Whig ticket, gives us the assurance—and no better is needed from a consistent and truth-speaking man—that his heart was with us at the crisis of our political destiny, when Henry Clay was our candidate and when not only Whig principles were well defined and clearly asserted, but Whig measures depended on success. The heart that was with us then is with us now, and we have a soldier's word of honor, and a life of public and private virtue, as the security.

4. Resolved, That we look on General Taylor's administration of the Government as one conducive of Peace, Prosperity, and Union. Of Peace—because no one better knows, or has greater reason to deplore, what he has seen sadly on the field of victory, the horrors of war, and especially of a foreign and aggressive war. Of Prosperity—now more than ever needed to relieve the nation from a burden of debt, and restore industry—agricultural, manufacturing and commercial—to its accustomed and peaceful functions and influences. Of Union—because we have a candidate whose very position as a Southwestern man, reared on the banks of the great stream whose tributaries, natural and artificial, embrace the whole Union, renders the protection of the interests of the whole country his first trust, and whose various duties in past life have been rendered, not on the soil or under the flag of any State or section, but over the wide frontier, and under the broad banner of the Nation.

5. Resolved, That standing, as the Whig Party does, on the broad and firm platform of the Constitution, braced up by all its inviolable and sacred guarantees and compromises, and cherished in the affections because protective of the interests of the people, we are proud to have, as the exponent of our opinions, one who is pledged to construe it by the wise and generous rules which Washington applied to it, and who has said, (and no Whig desires any other assurance) that he will make Washington's Administration the model of his own.

6. Resolved, That as Whigs and Americans, we are proud to acknowledge our gratitude for the great military services which, beginning at Palo Alto, and ending at Buena Vista, first awakened the American people to a just estimate of him who is now our Whig Candidate. In the discharge of a painful duty—for his march into the enemy's country was a reluctant one; in the command of regulars at one time and volunteers at another, and of both combined; in the decisive though punctual discipline of his camp, where all respected and beloved him; in the negotiations of terms for a dejected and desperate enemy; in the exigency of actual conflict, when the balance was perilously doubtful—we have found him the same—brave, distinguished and considerate, no heartless spectator of bloodshed, no trifler with human life or human happiness, and we do not know which to admire most, his heroism in withstanding the assaults of the enemy in the most hopeless fields of Buena Vista—mourning in generous sorrow over the graves of Ringgold, of Clay, or of Hardin—or in giving in the heat of battle, terms of merciful capitulation to a vanquished foe at Monterey, and not being ashamed to avow that he did it to spare women and children, helpless infancy, and more helpless age, against whom no American soldier ever wars. Such a military man, whose triumphs are neither remote nor doubtful, whose virtues these trials have tested, we are proud to make our Candidate.

7. Resolved, That in support of this nomination we ask our Whig friends throughout the nation to unite, to co-operate zealously, resolutely, with earnestness in behalf of our candidate, whom calumny cannot reach, and with respectful demeanor to our adversaries, whose Candidates have yet to prove their claims on the gratitude of the nation.