

## TO GEORGE WASHINGTON FROM JAMES MADISON, 21 FEBRUARY 1791

### From James Madison

Feby 21. 1791.

Copy of a paper made out & sent to the President at his request, to be ready in case his judgment should finally decide agst the Bill for incorporating a National Bank, the Bill being there before him.

Gentlemen of the Senate

Having carefully examined and maturely considered the Bill entitled, “An Act [ ]<sup>1</sup> I am compelled by the conviction of my judgment and the duty of my Station to return the Bill to the House in which it originated with the following objections:

(if to the Constitutionality.)

I object to the Bill because it is an essential principle of the Government that powers not delegated by the Constitution cannot be rightfully exercised; because the power proposed by the Bill to be received is not expressly delegated; and because I cannot satisfy myself that it results from any express power by fair and safe rules of implication.

(if to the merits alone or in addition.)

I object to the Bill because it appears to be unequal between the public and the Institution in favor of the institution; imposing no conditions on the latter equivalent to the stipulations assumed by the former. (quer. if this be within the intimation of the President.) I object to the Bill because it is in all cases the duty of the Government to dispense its benefits to individuals with as impartial a hand as the public interest will permit; and the Bill is in this respect unequal to individuals holding different denominations of public Stock and willing to become subscribers. This objection lies with particular force against the early day appointed for opening subscriptions, which if these should be filled as quickly as may happen, amounts to an exclusion of those remote from the Government, in favor of those near enough to take advantage of the opportunity.<sup>2</sup>

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AD, MB; transcript, DLC: James K. Polk Papers.

James Madison was the leading opponent in the House of Representatives of the bill to incorporate the Bank of the United States. Madison based his argument against the bill on constitutional grounds, but he also apparently believed that the bank would prove inexpedient and would benefit a small number of individuals at the expense of the public (Notes on Banks, c.1 Feb. 1791, and Notes on the Bank of England, c.1 Feb. 1791, *Madison Papers*, 13:364–67, 367–69). Having received written opinions against the constitutionality of the bank bill from Thomas Jefferson and Edmund Randolph, GW engaged Madison, who remained an important confidential adviser, in a series of conversations about the bill. In a memorandum written after 1817 James Madison recalled these conversations and the circumstances that prompted him to prepare a draft veto message for GW. Regarding GW’s quandary, Madison wrote: “The constitutionality of the national Bank, was a question on which his mind was greatly perplexed. His belief in the utility of the establishment & his disposition to favor a liberal construction of the national powers, formed a bias on one side. On the other, he had witnessed what passed in the Convention which framed the Constitution, and he knew the tenor of the reasonings & explanations under which it had been ratified by the State Conventions. His perplexity was increased by the opposite arguments and opinions of his official advisers Mr Jefferson & Mr Hamilton. He held several free conversations with me on the Subject, in which he listened favorably as I thought to my views of it, but certainly without committing himself in any manner whatever. Not long before the expiration of the ten days allowed for his decision, he desired me to reduce into form, the objections to the Bill, that he might be prepared, in case he should return it without his signature. . . . From this circumstance, with the manner in which the paper had been requested & received, I had inferred that he would not sign the Bill: but it was an inference nowise implying that he had precluded himself from consistently signing it. As it was, he delayed until the last moment, the message communicating his signature. The delay had begotten strong suspicions in the

zealous friends of the Bill, that it would be rejected. One of its ablest Champions, under this impression, told me he had been making an exact computation of the time elapsed, and that the Bill would be a law, in spite of its return with objections, in consequence of the failure to make the return within the limited term of ten days. I did not doubt that if such had been the case advantage would have been taken of it, and that the disappointed party would have commenced an open opposition to the President; so great was their confidence in the wealth and strength they possessed, and such the devotion of the successful speculators in the funds, and of the anti-republican partizans, to the plans & principles of the Secretary of the Treasury. The conversation had scarcely ended, when the message arrived with notice that the Bill had been approved and signed" (DLC: William Branch Giles Papers; Fleet, "Madison's 'Detached Memoranda,'" 542-43). See also [Edmund Randolph to GW, 12 Feb. 1791](#), and [Thomas Jefferson to GW, 15 Feb. 1791](#). For Alexander Hamilton's defense of the constitutionality of the bank bill, see [Hamilton to GW, 23 Feb. 1791](#).

The constitutionality of the bank bill was undoubtedly a principal concern for GW, but he may also have hesitated to sign the bill due to concerns that the establishment of the bank would discourage the removal of the federal government to the Potomac in 1801. This concern was apparently felt by members of the Virginia and Maryland delegations in Congress; Michael Jenifer Stone, representative from Maryland, alluded to it during debate in the house, saying that "if gentlemen charge us with defending the seat of Government, let them remember that this betrays consciousness of an attack. If they believe that this scheme tends to break the faith of the Union pledged to the Potomac, it is no wonder they suppose we oppose it upon that ground" (*Annals of Congress*, 1st Cong., 3d sess., 1982). An opponent of the bank bill, Stone raised this issue only to discount its importance relative to the constitutional issue. Fisher Ames, one of Hamilton's principal supporters in Congress and the leading defender of the bill on the floor of the house, wrote that Madison's constitutional argument was "full of casuistry and sophistry" and that many of Madison's supporters "laughed at the objection deduced from the Constitution." What really concerned opponents of the bank, Ames contended, was "the effect of the bank law to make the future removal of the government from this city to the Potomac less probable. This place will become the great centre of the revenue and banking operations of the nation. So many interests will be centered here, that it is feared that, ten years hence, Congress will be found fast anchored and immovable. This apprehension has an influence on Mr. Madison, the Secretary of State, as it is supposed, and perhaps on a still greater man. The bank law is before the President" (Ames to Thomas Dwight, 7 Feb. 1791, and Ames to George R. Minot, 17 Feb. 1791, in [Allen, Works of Fisher Ames](#), 2:862-63, 863-65).

1. At this point half a line is left blank in the MS.

2. Madison's objections on this point were remedied by provisions in "An Act supplementary to the act intituled 'An act to incorporate the subscribers to the Bank of the United States'" ([1 Stat.](#) 196-97).

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