

‘Constitutionality of the National Bank’

Due to the attempt by then-Secretary of State Thomas Jefferson and his allies to get President George Washington to veto the bill establishing the National Bank, Treasury Secretary Alexander Hamilton produced his definitive “Opinion on the Constitutionality of the Bank” on Feb. 23, 1791.

While his opponents tried to define the issue by saying the Constitution did not explicitly permit the Federal government to establish corporations, Hamilton argued that the Constitution’s establishment of the powers of the Federal government specifically gave it that power, in relation to its responsibility to manage “its finances, trade, defence ... in advance-

ment of the public good.” This rule ought to be “construed liberally,” he added.

At the very start, Hamilton gets to the core of the issue of the *implied* powers of the Federal government to achieve its purposes by establishing corporations, among other actions:

“Now it appears to the Secretary of the Treasury, that this *general principle is inherent* in the very definition of Government and essential to every step of the progress to be made by that of the United States, namely—that every power vested in a Government is in its nature *sovereign*, and includes by *force* of the *term*, a right to employ all the *means* requisite, and fairly *applicable* to the attainment of the *ends* of such power: and which are not precluded by restrictions and exceptions specified in the constitution, or not immoral, or not contrary to the essential ends of political society” (emphasis in original).