

ALEXANDER HAMILTON, THE BANK OF THE UNITED STATES AND THE THEORY OF IMPLIED POWERS

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RECEIVED 04/20/2024

APPROVED 05/15/2024

PUBLISHED 06/22/2024

Responsible Editor: Carla Caldas

Evaluation Method: Double Blind Review

E-ISSN:2316-8080

DOI:10.16928

ABSTRACT

This article seeks to elucidate the constitutional interpretation, which gave legal support to the creation of the First and Second Bank of the United States. Analyzing Alexander Hamilton's economic program and his postulations for the constitutionality of the institution, as well as the initial proceedings in the American Congress and the decision for the constitutionality of the financial institution, issued by the Supreme Court during the Presidency of John Marshall, the work seeks to show that the theory of implicit powers was essential for the Bank of the United States to be created and maintained, thus giving legal and constitutional support to Hamilton's economic program, which would be responsible for the surprising economic growth of the USA during the 19th century.

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KEY WORDS: *Theory of implied powers*. Alexander Hamilton. Bank of the United States

INTRODUCTION

Several articles in Brazil and the USA have already dealt with issues related to the development and application of the theory of implicit powers. Sousa and Duarte (2021) elucidated on the application of the theory of implicit powers in the STF. Casagrande and Barreira (2019), in turn, showed how this theory is applied in Brazil within the scope of the Public Ministry. In the American academic context, Schwartz (2019) analyzed the theory, in light of the commerce clause of the US Constitution. Mikhail (2023) showed that the Founding Fathers adopted both enumerated powers and implicit powers, explaining what they were and what the constitutional justifications were for understanding them as implicit.

The present work recognizes and appreciates previous works on the topic, but proceeds in a somewhat different way. The objective of this article is to highlight that the theory of implicit powers developed by Alexander Hamilton provided constitutional support for his economic program, and that a literal interpretation of the liberal constitution of the United States, as defended by Jefferson and Madison, would certainly make it unfeasible. Thus, the article seeks to explore constitutional theories that influenced the economic growth and development of the USA, especially in the early years of the then young republic.

The work is structured as follows. Firstly, post introduction, we will address Hamilton's political and economic thought, bringing considerations about his political thought, as it is inseparably linked to his economic theory and his performance as the first US Treasury Secretary. Later, we will provide an analysis of the reports he produced when he was Secretary of the Treasury³ in George Washington's Government, elucidating what his economic plan was and how Hamilton's program helped in the creation of the first American political parties. Later, we will discuss the reactions of Madison and Jefferson, pointing out their political philosophies for opposition to the financial institution, in addition to analyzing the approval of the Hamiltonian program in congress and among members of Washington's cabinet, bringing Hamilton's opinion,

³The position is equivalent in Brazil to the Minister of Economy, thus denoting its broad importance in managing the economy.

which convinced him, of its constitutionality. of the First Bank of the United States. Next, we will analyze the *McCulloch v. Maryland*, bringing the opinion of the then President of the US Supreme Court, John Marshall, as well as the legacy of that decision as legal and constitutional support for the Hamiltonian program. Finally, we will bring the conclusions of what was discussed, with the aim of outlining how the constitutional theory of implicit powers, developed by Hamilton and applied in practice by John Marshall, supported the economic program responsible for the country's extraordinary economic growth in the 19th century. .

POLITICAL THOUGHT, THE HAMILTON ECONOMIC PROGRAM AND THE CREATION OF THE FIRST POLITICAL PARTIES

The description of Hamilton's political philosophy is a difficult task, which researchers and writers from the most varied areas have been debating for some time. As Livingston (1957) highlights, Hamilton's belief that the State should be managed by an aristocracy of skilled, visionary and enlightened men caused intellectuals who wrote about the former American treasury secretary to consider him a “pseudo-conservative”. , spokesperson for business interest groups, who did not fit faithfully into an authentic conservative tradition. Russell Kirk (1954), in his seminal book *The Conservative mind: from Burke to Santayana*, echoed these sentiments, characterizing him as retrograde and behind his time (p.178) and possessing a short-term mercantilist vision (p. 176). More recently, DiLorenzo⁴(2009), writing in the midst of the 2008 crisis, was even more ferocious, postulating that Hamilton betrayed the Constitution and the ideals of the American revolution when he developed his theory of implicit powers, providing support for the crony capitalism that would supposedly affect the United States, through high taxes, a bloated federal government captured by interest groups, and oppressive taxation.

⁴For the libertarian author, Hamilton today would be a pragmatic right-wing Democrat, in the tradition of Ted Kennedy, senator from Massachusetts and brother of the late president John Kennedy. See <https://nypost.com/2020/07/08/alexander-hamilton-would-be-a-right-leaning-democrat-today-historians/>, accessed on 01/10/2024

The insults to the Founding Father sound very similar to what I heard when I was in charge of the American treasury. As Freeman shows⁵, Thomas Jefferson not only called him a monarchist, but also in favor of a monarchy supported by corruption, postulating that Hamilton and his allies in the Treasury would form “the most corrupt government on Earth”.

Despite the scathing criticism, as Livingston (1957) highlights, if there is any conservative tradition in the USA, it is the Hamiltonian tradition. In this context, the conservative Anglo-Saxon predisposition⁶ of Hamilton for order and realism, made him reject as idealistic the liberal dispositions of Adam Smith (Livingston, 1957) and the invisible hand of the free market, replacing it with a visible hand of leaders forming a ruling aristocracy, far from visions petty and short-sighted, concerned with the economic development and sovereignty of the hitherto young and fragile American republic (Livingston, 1957). In terms of public policies, the Hamiltonian program summarizes his predilection for a centralizing federal government, inducing industrialization and economic development guided by the State, being in line with his philosophy that the State and the economy should be managed by a ruling class.

Starting with his Report Relative to a Provision for the Support of Public Credit, the first report for Public Credit, Hamilton (1790), already demonstrates his predilection for the centralization and strength of the federal government. In the context in which Hamilton writes, just a few years after the War of Independence, US public finances were completely out of adjustment. Each state in the former thirteen colonies had issued its public bonds to cover war expenses, and there were rumors that many states would not honor their financial commitments, leading to an extreme devaluation of the bonds

⁵See FREEMAN, JB Jefferson and Hamilton: Political Rivals in Washington's Cabinet. **Mount Vernon**. Available at, <https://www.mountvernon.org/george-washington/the-first-president/washingtons-presidential-cabinet/jefferson-and-hamilton-political-rivals/>, accessed on 01/10/2024.

⁶It is important to highlight here that the Anglo-Saxon conservative tradition differs from what is understood as conservative, both in Continental Europe and in Latin America, and more specifically, in Brazil. If compared to what is understood as conservative in the Latin world, Burke, the creator of this ideological trend in the English-speaking world, had several progressive positions, even for the time in which he wrote: he was against slavery, the discriminatory treatment of Catholics in Ireland, the English oppression in the face of American colonists and the colonization of India. This author's philosophy, therefore, would entail something like “progressive conservatism”, in which the aim is to preserve tested institutions that have already worked, but progressively promote reforms in order to alleviate specific problems. For a short biography of the author, with references to his main positions during his parliamentary life, see NORMAN, Jesse. **Edmund Burke: the first conservative**. Basic Books (AZ), 2013. For an overview of the different types of conservatism in the US, see HUNTINGTON, SP Conservatism as an Ideology. **American political science review**, 1957, 51.2: 454-473. For more information about a reactionary and anti-modern conservatism, more similar to what is understood as conservative, in the common sense of the term in Continental Europe and Latin America, see PRANCHÈRE, Jean-Yves. **L'autorité contre les Lumières: la philosophie de Joseph de Maistre**. Library Droz, 2004.

issued by the states. In this context, Hamilton (1790a) realizes the extreme importance of the federal government assuming such debts, arguing that such an action would bring increases to trade, as merchants would have more facilities to carry out commercial operations and more liquidity. Furthermore, the assumption of debt would benefit agriculture and manufacturing, as more capital could be used in both, in order to stimulate industry and entrepreneurship. Finally, Hamilton argues that interest rates would be lowered, allowing both the public and individuals to borrow more cheaply. The combination of such factors would generate a positive effect, promoting work, industry and all types of arts, putting the country on the right path to long-term economic growth (Hamilton, 1790a).

In the same year, Hamilton published his second report, addressed to the president of the Chamber of Deputies, highlighting that a National Bank would be an institution of primary importance for the administration of public finances and the promotion of public credit. The bank, which according to Miller (1960) would be modeled on the Bank of England⁷, it was justified by Hamilton (1790b), firstly, that such an institution was present in the main and most developed commercial nations, such as Italy, Germany, Holland, England and France. He also points out as reasons for its creation, the increase in a country's active capital, the greater ease for the State to obtain financial assistance, especially in emergencies and the facilitation of tax payments. The bank would have an initial capitalization of 10 million dollars in shares, with 20% belonging to the federal government and the rest sold to European and American investors and would have the function of promoting the credit necessary to carry out infrastructure works, industrialization, as well as tax collection, possible loans to the government and management of the federal government's public debt. Regarding the issue of governance, among other provisions, the treasury secretary would have the power to remove government deposits, inspect its books, request weekly reports from the institution's president and the bank would not be able to buy American government bonds, nor go into debt to in addition to its capitalization value, being managed by a board with 25 directors, reserved only for American citizens.

⁷For more information about the Bank of England and its role in the development and solidification of the country as a financial and naval power, see. O'BRIEN, Patrick K.; PALMA, Nuno. Not an ordinary bank but a great engine of state: The Bank of England and the British economy, 1694–1844. **The Economic History Review**, 2023, 76.1: 305-329.

In December 1791, Hamilton published perhaps his most famous work, the “Report on Manufactures”, which aimed to stimulate American industrialization. The report is the most extensive that Hamilton will produce to date, recommending several policies for industrial promotion, such as tariffs on the import of manufactured goods, low tariffs on some raw materials, production subsidies for certain industries, government assistance for immigration from qualified workers, among others (Irwin, 2004).

In his report, Hamilton (1791a), rejects the idea that agriculture would be more productive than industry, citing by name the qualities of the latter, such as division of labor, extensive use of machinery, the employment of classes that are not ordinarily related to business, the promotion of emigration from foreign countries, the cultivation of different talents of men that differentiate them from one another and the creation and maintenance of a demand for profit arising from agricultural commodities

Contrary to critics of the industry promotion policy who argued that the success of manufacturing in the United States was impossible, Hamilton (1791a) lists sectors of manufactured goods that the country had managed to produce until then, such as shoes and different leather articles, nails, ovens, pans, ships, mathematical instruments, some types of machines, gunpowder, refined sugar, among others. Thus, he sought to persuade that yes, the country, despite being far behind the main European powers in terms of manufacturing capacity, was capable of producing goods with more technology than merely commodities and natural products. As Livingston (1957) highlights, the report rejects the British doctrine of laissez-faire, promoted by England and Adam Smith, inaugurating the nationalist-conservative tradition⁸American company to protect and promote its own industries through tariffs, subsidies and investments in infrastructure⁹.

Finally, Hamilton publishes his last work as secretary of the treasury, in 1795. The report, which adopts a farewell tone, as the Secretary of the Treasury 15 days later

⁸The nationalist-conservative tradition will be followed by other important public figures in American history, such as Daniel Webster, lawyer and senator from Massachusetts who argued the constitutionality of the second bank of the United States in the Supreme Court, in the seminal case *McCullough v. Maryland*, as cited below in the work. For more information on Webster's life and philosophy, see REMINI, R.V. **Daniel Webster: The Man and His Time**. W. W. Norton & Company. 1997. To briefly see how important his political action was, see Kennedy, J.F. **Profiles in courage**. Pickle Partners Publishing. 2015

⁹Protection of industry through tariffs, as highlighted by Irwin (2020), lasted throughout the 19th century and only from 1933 onwards, when the USA, already the largest economy in the world, began to promote free trade agreements and reciprocal tariffs, returning to a strong extent with the election of Donald Trump in 2016, especially in the steel sector and products coming from China.

would resign from his position, returning to private legal practice, points out the main revenues and expenses of the American State and a review of what had been achieved in the 5 years of government in which he was present. The report also presents 10 proposals for strengthening public credit, such as payment of interest on external debt, the need to seriously observe the progressive growth of the country's debt and the transformation of import tariffs into permanent and no longer temporary taxes. Hamilton¹⁰the document ends, highlighting the importance of credit, both private and public, in the country's economic growth and well-being, as well as in protecting and maintaining the sovereignty of the USA, which had recently won its independence against one of the main powers at hard cost. military in the world.

The ideological controversy of the Hamiltonian program, exemplified by the bank issue, would divide the United States for decades. As Posner (2020, p.61) highlights, supporters of Hamilton's program focused on the federalist party, to oppose the recently created Democratic-Republican party, led by those who opposed the treasury secretary's program. The Federalists, represented by Hamilton, were defenders of a strong federal government that promoted commerce and industry, with an electoral base among merchants and financiers, based in large cities, especially in the North of the country. On the other side, there were the Republicans, led by Jefferson and Madison, who defended a weak and small federal government, in order to give more power to the States, with an electoral base in the South and Western states, especially farmers.

THE APPROVAL OF THE HAMILTONIAN PROGRAM IN CONGRESS

In relation to the Bank of the United States, as Morgan (1956) points out, despite the report on the institution being addressed to the Chamber of Deputies, the Senate took the lead in approving the bill that created it. This proposal generated strong unrest

¹⁰Hamilton, fought in the Revolutionary War of Independence, serving in his last post as an aide to George Washington. For a complete biography of the first American treasury secretary, including his time in the army, see CHERNOW, R.. **Alexander Hamilton**. Penguin.books. 2005. For a review of his main writings, including letters, reports, articles and speeches, see HAMILTON, A., & FREEMAN, JB. **The essential Hamilton: letters & other writings: America's most controversial founder--in his own words**. The Library of America. 2017

from the Democratic-Republican party, generally with pro-agricultural southern congressmen, leading the opposition, such as James Madison, Thomas Jefferson and John Taylor. The leadership of the opposition to the bank fell to William Maclay, senator from Pennsylvania. In general, arguments against the institution were similar to those proposed by the agrarian aristocracy in England in relation to the Bank of England, claiming that an institution of this type would encourage corruption, speculation and the urbanization of the population (Morgan, 1956).

Despite the opposition on the part of some senators, the vote constituting the bank was approved with some ease, without the need for a roll call vote (Morgan, 1956). Voting in the Chamber proved more difficult and slower, as many deputies did not take sides a priori in relation to the institution. As Morgan highlights, the debate in the House took place on two fronts: the first, concerned the economic value of the institution, with opponents postulating that it would only benefit an elite. The second was related to its constitutionality (Morgan, 1956).

The debate in the House was then opened by an opponent of the Hamiltonian program, from Georgia, the southern state of the young republic. The congressman echoed the usual complaints of those who opposed the bank, questioning its purpose and claiming that no farmer in Georgia would benefit from the institution, which would serve only a merchant class in a small part of the United States (Morgan, 1956).

Then, the next person to debate the project was James Madison, Hamilton's co-author of the Federalist articles¹¹, who already enjoyed fame at that time as an intellectual with a deep understanding of historical experiences. Madison began his speech by pointing out the main advantages and disadvantages of the existence of an institution of this type. Among the advantages, he highlights that the capital would be made available for investment, the bank would help traders with the immediate payment of customs fees and other taxes, making short-term loans available. The bank could also lend money to the government and would help lower interest rates, prevent the accumulation of precious metals by storing them in its vaults and instead issue paper, and facilitate personal remittances from inaccessible locations. Among the disadvantages, Madison cites that precious metals would be removed from circulation,

¹¹Hamilton wrote the most Federalist articles, followed by contributions from Madison and John Jay, respectively. For the complete federalist papers, see MADISON, J., HAMILTON, A., & JAY, J.. **The federalist papers**. 2017

the public would be at the mercy of possible bank runs¹², the institution would concentrate wealth in a single area and favor a small group of investors who could buy shares before people far from the capital could do the same (Morgan, 1956).

Madison then exposed a theoretical reason regarding the constitutionality of the institution. As Morgan (1956) highlights, the constitutionality of the bank was directly linked to the issue of states' rights, so that a more powerful federal government would necessarily mean more fragile state governments. For Madison, a national bank of this type could hinder States from doing the same in their respective jurisdictions, also serving as a precedent for Congress to establish companies like the British East India Company.

According to Morgan (1956), when questioning the constitutionality of the bank, Madison argued against his own record in congress, since the theory of implicit powers had originated in his report to Congress, back in 1781. In the federal convention of 1787 that culminated in the American Constitution, the congressman co-sponsored a resolution granting Congress the power to establish entities in which the public interest was present. According to Morgan (1956), only his distrust of financial power could explain his opposition to the institution.

In general, as noted by a Maryland congressman (Morgan, 1956), the bill was supported by congressmen from the Northeastern United States, such as New York and the New England states, and opposed by Southern congressmen, such as Madison and Jefferson from Virginia. . For Hamilton's supporters in congress, the law that created the bank was not only constitutional, but would also bring economic benefits and was based on the experience of other countries, which used institutions of the same type to promote commerce and industrialization. Regarding the constitutionality of the bank, Fisher Ames, congressman from Massachusetts and supporter of Hamilton, states that Congress has the power to do whatever is necessary to implement what was adopted in

¹²Bank runs, or in English, bank runs, are generally the sudden withdrawal of funds from a financial institution, generally out of fear about their solidity and liquidity. For a review of the literature on bank runs and how to avoid them, see Alonso, I.. On avoiding bank runs. *Journal of Monetary Economics*, 37(1), 73-87. 1996. With the digitalization of financial services, and the possibility of instant withdrawals, the problem of bank runs, exemplified by the failure of the Silicon Valley Bank, in California in 2023, provided new academic discussions about this phenomenon in the digital era. See Choi, DB, Goldsmith-Pinkham, P., & Yorulmazer, T.. Contagion effects of the silicon valley bank run (No. w31772). **National Bureau of Economic Research**. 2023

the Constitution, as long as what was adopted does not violate natural rights of men, or to those expressly destined for them or the States (Morgan, 1956).

The opposition proved fruitless, and the bill creating the bank was approved by 39 votes in favor, with 20 votes against (Morgan, 1956). The project then went to George Washington for approval, who, divided by the opinions of the members of his cabinet, requested opinions on the constitutionality of the institution. On one side were Thomas Jefferson and the Attorney General of the Union, Edmund Jennings Randolph, arguing for the bank's unconstitutionality. On the other, there was the treasury secretary, pleading for the constitutionality of the institution, developing the theory of implicit powers¹³.

Hamilton argued for the rejection of Jefferson's restrictive interpretation, referring to the “necessary and proper” clause of the American Constitution. This passage from the country's Magna Carta, contained in article I, item 8, says that “Congress shall have power... To make all laws that are necessary and adequate to carry into execution the previous Powers, and all other Powers conferred by this Constitution to the Government of the United States, or to any Department or Officer thereof.” In a large part of the opinion, Hamilton refutes the positions of Jefferson and the Attorney General of the Union, showing that a restrictive interpretation of the word “necessary” would be incorrect and impractical in the real world, as it would be impossible for governments to predict what would be necessary in all situations. He argues that the restrictive view of this passage would lead to endless insecurity and embarrassment, exposing that in such an interpretation only cases of extreme necessity would be justified as “necessary”, remembering that there are also no clauses in state constitutions that expressly allow states to create companies (Hamilton, 1791b).

As cited by Remini (1997, p.164), Hamilton concludes that article I, item 8, of the constitution, was applicable in the case of the bank because it specifically empowered congress to make laws necessary and appropriate for the execution of the powers delegated to it. . According to Hamilton (1791), therefore, the constitution, through the “necessary and proper” clause, had implicit powers that could be exercised

¹³For a reading on the application of such theory in Brazil, see SOUSA, P., & DUARTE, EP The Theory of Implicit Powers in the Determination of Constitutional Competencies (Legislative and Material) in the United States and Brazil: the constitutional trajectory for substantiate the investigative powers of the public prosecutor. **Constitution, Economy and Development: Electronic Journal of the Brazilian Academy of Constitutional Law**, 13(25), 210-232. 2021. For more information on this theory at the European level, see HODUN, MM Doctrine of implied powers as a judicial tool to build federal polities: comparative study on the doctrine of implied powers in the European Union and the United States of America. 2015.

by the federal government. Thus, since Congress would have the power to regulate commerce, it would also have the power to erect rules and regulations necessary to regulate commerce, hence the theory of implicit powers, which denotes that the State has the prerogative of norms that support the objectives and express clauses of the constitution.

As Livingston (1956) points out, if Hamilton was unable to convince Washington, the bank project would in fact be dead, as there would be no chance of it being approved again, once vetoed. The argument convinced the president, who signed the law promulgating the bank as Hamilton suggested, with 25% of the shares belonging to the federal government, and the remainder sold to investors from the USA and Europe, as well as a term of 20 years.

JOHN MARSHALL'S DECISION IN McCULLOCH V. MARYLAND

The First Bank of the United States, which had a duration of 20 years as stipulated by Hamilton, was not renewed once that period had elapsed, and was extinguished in 1811 (Remini, 1997, p.164). In 1816 Madison, in a notable change of stance, signed the re-creation of the institution, bringing the debate about its constitutionality to the surface again (Casagrande, 2019).

According to Remini (1997, p.164), the second bank immediately established 18 branches in the country's largest cities. Hostility towards the bank still existed throughout the territory, and when the then new president of the institution, Langdon Cheves, demanded the payment of frivolous loans and closed mortgages, in order to resolve the mistakes of the predecessor president, he ended up precipitating the crisis of 1819 and the severe depression that accompanied it. Many states, angry with the institution's actions, then began to tax it, or used their taxing power to prevent it from operating within their borders. In 1818, the notorious Baltimore, Maryland branch was taxed, and the bank's cashier in the city, James McCulloch, refused to pay and was sued by the state.

In the first instances, the state won the dispute, but the bank managed to appeal to the Supreme Court, hoping to reverse the judgment (Remini, 1997, p.164). Defending

the bank were experienced and renowned lawyers, such as Daniel Webster¹⁴, William Pinckney and William Wirt. During the oral debates, Webster cited Hamilton's opinion on the constitutionality of the Bank, stating that since the approval of the First Bank of the United States, all legislatures had voted to establish the institution, with the assumption that such an act was legal and was within the powers of the federal government. According to him, some individuals would have complained, but never in court. Continuing his defense, regarding the “necessary and proper” clause, Webster argued that the correct interpretation of the passage should be to observe whether a certain legal instrument would not be specifically prohibited by the constitution, otherwise it could be used. (Remini, 1997, p.165). Thus, as he explained, the bank was an appropriate instrument for the government to collect taxes and disburse its profits, so Congress would have obligations to fulfill and therefore the right to choose how these could be fulfilled. Finally, Webster argued the second question of the case, concerning the states' power to tax Federal Government institutions. During his oral argument regarding the topic, the excellent lawyer postulates that it would not be possible, reciting the famous phrase that “the power to tax is the power to destroy”, paving the way that would be followed by his colleagues in defending the bank (Remini, 1997, p.165).

The trial did not take long, and 4 days after the oral debates, the president of the court John Marshall¹⁵, issued the decision handed down by the court unanimously. He confirmed Congress's right to create a bank, postulating that the legislature had such a prerogative due to the fact that it had the right to enact all necessary laws to achieve the interests of the population. Although the right to create a bank is not among the enumerated powers, he continued, several other constitutional clauses, such as those involving war, commerce and taxes, demonstrate that such power is implicit (Remini, 1997 p.167). Regarding the possibility of Maryland taxing a federal institution, Marshall repeated Webster's phrase “the power to tax is the power to destroy”, and that if the state could tax the bank, it could also do the same to other agencies of the federal

¹⁴In addition to this case, Webster also argued important Supreme Court cases such as *Dartmouth College v. Woodward* (1819), *Gibbons v. Ogden* (1824), *Ogden v. Saunders* (1827), and *Charles River Bridge v. Warren Bridge* (1837). For more information about his work as a lawyer, see NEWMYER, RK Daniel Webster as Tocqueville's lawyer: the Dartmouth College case again. **American Journal of Legal History**. 1967

¹⁵Like Hamilton, John Marshall was from the Federalist Party, being nominated to the court by the second American president, John Adams, at the end of his term. In this context, his philosophy was pro-industry and commerce, as well as pro-federal government positions in disputes between states. For more information about the jurist, see BROOKHISER, R. **John Marshall: The Man Who Made the Supreme Court**. Hachette UK, 2018.

government, which would mean going against the popular will in the creation of the government. The taxation was, therefore, considered null and void, and the lower court ruling in favor of Maryland was reversed.¹⁶

As Hammond (1947) points out, the bank would only be extinguished in 1836¹⁷, by virtue of executive power, becoming a private bank incorporated in the state of Pennsylvania. Led by President Andrew Jackson¹⁸, at the time when the bank's statute was supposed to be renewed, the extension of its validity was vetoed and as Jackson had a majority in congress, his veto could not be overturned. The financial institution still operated for monetary deposits, but Jackson also tried to extinguish this functionality, firing two treasury secretaries until he found someone who would fulfill his desire to cease the bank's deposit activities, leading to the contraction of credit and a subsequent financial crisis in 1837. With the extinction of the bank, it was only in 1913, during Woodrow Wilson's government, that the USA would return to having a Central Bank¹⁹.

CONCLUSIONS

Hamilton's program caused many clashes and friction, not only between powers, but also between different parts of the country. The North, with its industrial and financial base, supported his program, while the South and West, supported by the agrarian sector based on large farms and slave labor, rejected it.²⁰ Furthermore,

¹⁶As Remini (1997, p.167) highlights, Madison and Jefferson, opponents of constitutionality (despite Madison recreating it in 1816), disagreed with the decision, and Andrew Jackson, who would become president of the USA in the future, also disagreed with the constitutionality regarding the possibility of the bank's existence.

¹⁷Andrew Jackson's actions led to the creation of the Whig party, an indirect successor to the Federalist party, which inherits, to a large extent, the northern electoral base of merchants, financiers and the urban community in general. For more information about the party, see HOLT, MF The rise and fall of the American Whig Party: Jacksonian politics and the onset of the Civil War. Oxford University Press, 1999.

¹⁸Posner (2020, p.83) calls Andrew Jackson, for his anti-elite and anti-federal government rhetoric, the first populist president and demagogue in the USA.

¹⁹For more information about the Fed, the American Central Bank, see Forder, J.. 'Independence' and the Founding of the Federal Reserve. **Scottish Journal of Political Economy**, 50(3), 297-310. 2003

²⁰More than 200 years after the creation of the Hamiltonian program, the country continues to have considerable geographic and political divisions. The richest states in the federation, especially on both coasts, such as California, New York and Massachusetts have become Democratic strongholds, a party which, since Franklin Delano Roosevelt, has been associated with the predilection for a strong and centralized federal government. Modern Republicans, in turn, associated more with an ideology of reduced government, with greater state autonomy, are supported by the southern states and the American

different Founding Fathers held different opinions about the program, exemplified in the bank controversy. In addition to Washington and Hamilton, John Adams²¹ and John Marshall also supported it, while Madison and Jefferson opposed the institution, calling for its unconstitutionality.

In this way, the economic issue encouraged not only economic debates, but also political debates. Supporters of the Hamiltonian program organized themselves into the Federalist Party, exponents of a vision based on the conservative Anglo-Saxon ideology of Edmund Burke and the predilection for a strong, centralized federal government, which would foster industrialization, commerce and productive sophistication. Opponents such as Thomas Jefferson and James Madison organized themselves into the Democratic-Republican party, with a predilection for a weak federal government, with greater power and autonomy for the states and the agrarian aristocracy, in addition to an economy based on export-oriented agriculture.²²

As shown by Cohen and Delong (2016, p.7), Hamilton redesigned the American economy, establishing an active government and public policies that promoted commerce, industrialization and financial services, abandoning the English idea and that of its pro-agricultural opponents, that the then young country should only be a producer of commodities and a consumer of high-value-added English goods.

Giving support to Hamilton's economic program was the theory of implicit powers, guaranteeing the constitutionality of the Bank of the United States, a central institution for the treasury secretary's developmental program. If he had not developed the theory of implicit powers, it is possible that Washington would veto the creation of the financial institution, so that credit in the USA would be much less available and much more expensive, directly impacting the country's industrialization. Thus, it is necessary to keep in mind, especially when browsing Brazilian economic news and even academic debates in some areas of law, economics or political science, that the

Midwest. For more information on this schism, see BLACK, E; BLACK, M. **Divided America: The fierce power struggle in American politics**. Simon and Schuster, 2007.

²¹John Adams, the second president of the USA, like Hamilton and the other federalists, also followed a type of progressive conservatism based on Burke's ideas. As examples of such philosophy during Adams' public life, despite his pessimism towards humanity, we can mention his taste for education, placing it in the Massachusetts Constitution as one of the objectives to be achieved by society, the founding of the Academy of Arts and Sciences in 1780 for the spread of education and culture, as well as the fact that he was one of the few Founding Fathers to not own slaves, as he found the practice immoral. For more information about John Adams, see MCCULLOUGH, D. **John Adams**. Simon and Schuster, 2002.

²²The ideological division of the period, in addition to spreading to the ideologies of parties and even certain geographic areas of the country, also spread to some academic debates, such as antitrust law. For an example of how such antagonistic views shape understandings about the State's performance in the competition field, see CRANE, DA Antitrust Antifederalism. California Law Review, 2008.

USA was founded on the basis of an economic policy diametrically opposed to the free market.²³ and a literal and restricted interpretation of its constitution. Had the Madisonian/Jeffersonian interpretation prevailed, they would likely be a very different economy than they are today.

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²³Recently, Hamilton's national-developmental program has served as an inspiration for the most diverse political spectrum, with both ideological sides calling for greater state action, along the same lines as the actions of the first treasury secretary, as an alternative theory to neoliberalism. started in the Reagan era. For a more left-wing version of Hamilton's considerations, see PARENTI, C. **Radical Hamilton: Economic lessons from a misunderstood founder**. Verso Books, 2020. For a more right-wing version, focused a little more on nationalism and the protection of large American companies against the Chinese economic threat, see ATKINSON, RD National Developmentalism: The Alternative to Neoliberalism and Neo-New Dealism. Information Technology and Innovation Foundation. 2024

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