

Pennsylvania Proposal of an Impartial Tribunal to Decide Constitutionality of Federal Laws Disputed by the States

23. Resolution of the Legislature of Pennsylvania, April 3, 1809.

* * * * * And whereas the causes and reasons which have produced this conflict between the general and state government should be made known, not only that the state may be justified to her sister states, who are equally interested in the preservation of the state rights; but to evince to the Government of the United States that the Legislature, in resisting encroachments on their rights, are not acting in a spirit of hostility to the legitimate powers of the United States' courts; but are actuated by a disposition to compromise, and to guard against future collisions of power, by an amendment to the constitution: and that, whilst they are contending for the rights of the State, that it will be attributed to a desire of preserving the federal government itself, the best features of which must depend upon keeping up a just balance between the general and state governments, as guaranteed by the constitution.

Be it therefore known, that the present unhappy dispute has arisen out of the following circumstances: [Here follows a detailed statement of their view of the case.]

Although the Legislature reverence the constitution of the United States and its lawful authorities, yet there is a respect due to the solemn and public acts, and to the honor and dignity of our own state, and the unvarying assertion of her right, for a period of thirty years, which right ought not to be relinquished, Therefore,

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, &c. That, as a member of the Federal Union, the Legislature of Pennsylvania acknowledges the supremacy, and will cheerfully submit to the authority of the general government, as far as that authority is delegated by the constitution of the United States. But, whilst they yield to this authority, when exercised within Constitutional limits, they trust they will not be considered as acting hostile to the General Government, when, as *guardians of the State rights*, they can not permit an infringement of those rights, by an unconstitutional exercise of power in the United States' courts.

Resolved, That in a government like that of the United States, where there are powers granted to the general government, and rights reserved to the states, it is impossible, from the imperfections of language, so to define the limits of each, that difficulties should not some times arise from a collision of powers: and it is to be lamented, that no provision is made in the constitution for determining disputes between the general and state governments by an impartial tribunal, when such cases occur.

Resolved, That from the construction the United States' courts give to their powers, the harmony of the states, if they resist encroachments on their rights, will frequently be interrupted; and if to prevent this evil, they should, on all occasions yield to stretches of power, the reserved rights of the States will depend on the arbitrary power of the courts.

Resolved, That, should the independence of the states, as secured by the constitution, be destroyed, the liberties of the people in so extensive a country cannot long survive. To suffer the United States' courts to decide on STATE RIGHTS will, from a bias *in favor of power*, necessarily destroy the FEDERAL PART of our Government: And whenever the government of the United States becomes consolidated, we may learn from the history of nations what will be the event.

To prevent the balance between the general and state governments from being destroyed, and the harmony of the States from being interrupted,

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure an amendment to the Constitution of the United States, that an impartial tribunal may be established to determine disputes between the general and state governments; and, that they be further instructed to use their endeavors, that in the meanwhile, such arrangements may be made, between the government of the Union and of this State, as will put an end to existing difficulties.

Resolved, That the Governor be requested to transmit a copy of these resolutions, to the Executive of the United States, to be laid before Congress, at their next session. And that he be authorized and directed to correspond with the President on the subject in controversy, and to agree to such arrangements as may be in the power of the executive to make, or that Congress may make, either by the appointment of commissioners or otherwise, for settling the difficulties between the two governments.

And, That the Governor be also requested to transmit a copy to the Executives of the several States in the Union, with a request, that they may be laid before their respective Legislatures.

[*Pamphlet Laws of Pennsylvania*, 1808–09, 200.]

Retrieved from

["https://en.wikisource.org/w/index.php?title=State_Documents_on_Federal_Relations/23&oldid=2308611"](https://en.wikisource.org/w/index.php?title=State_Documents_on_Federal_Relations/23&oldid=2308611)

Hidden category: