



Excerpts from the Virginia and Kentucky Resolutions

The Virginia Resolution Excerpt

Madison’s Virginia Resolutions begin by declaring that the Federal Government holds power only through a compact of the states. It also explains its objections to the Alien and Sedition as a limitation on free speech beyond the express powers of the Federal Government.

That this Assembly doth explicitly and peremptorily declare, that it views **the powers of the federal government, as resulting from the compact, to which the states are parties**; as limited by the plain sense and intention of the instrument constituting the compact; as no further valid that they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.

....That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the **“Alien and Sedition Acts”** passed at the last session of Congress; the first of which exercises a power no where delegated to the federal government, and which by uniting legislative and judicial powers to those of executive, subverts the general principles of free government; as well as the particular organization, and positive provisions of the federal constitution; and the other of which acts, exercises in like manner, a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; a power, which more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.

The Kentucky Resolution Excerpt

Jefferson believed that the Judicial Branch was not empowered to judge the constitutionality of the actions of the Executive or Legislative Branches. A key passage in the Kentucky Resolutions (passed in two parts in 1798 and 1799) centered on his belief that only the states could judge an “infraction” of the Federal Government. Nothing could stop the Federal Government from despotism if it were the only check on itself. “Nullification,” for a state to declare a Federal law null and void, was the only “rightful remedy.” The principle of Nullification would later be adopted by other states. In 1832, the South Carolina Ordinance of Nullification declared federal import duties null and void. The principle of Nullification was important in the secession of the

South. The 1799 Kentucky Resolution declares the Alien and Sedition Acts unconstitutional, but without the specific explanation found in the Draft (available at <http://www.yale.edu/lawweb/avalon/jeffken.htm> on the EDSITEment resource [The Avalon Project](http://www.yale.edu/lawweb/avalon/avalon.htm) [<http://www.yale.edu/lawweb/avalon/avalon.htm>]).

RESOLVED, That this commonwealth considers the federal union, upon the terms and for the purposes specified in the late compact, as conducive to the liberty and happiness of the several states: That it does now unequivocally declare its attachment to the Union, and to that compact, agreeable to its obvious and real intention, and will be among the last to seek its dissolution: That if those who administer the general government be permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein contained, annihilation of the state governments, and the erection upon their ruins, of a general consolidated government, will be the inevitable consequence: **That the principle and construction contended for by sundry of the state legislatures, that the general government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism; since the discretion of those who administer the government, and not the constitution, would be the measure of their powers: That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and that a nullification, by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy:** That this commonwealth does upon the most deliberate reconsideration declare, that the said alien and sedition laws, are in their opinion, palpable violations of the said constitution; and however cheerfully it may be disposed to surrender its opinion to a majority of its sister states in matters of ordinary or doubtful policy; yet, in momentous regulations like the present, which so vitally wound the best rights of the citizen, it would consider a silent acquiescence as highly criminal: That although this commonwealth as a party to the federal compact; will bow to the laws of the Union, yet it does at the same time declare, that it will not now, nor ever hereafter, cease to oppose in a constitutional manner, every attempt from what quarter so ever offered, to violate that compact....