

House Resolution 1825

By: Representatives Benton of the 31st, England of the 108th, Bearden of the 68th, Keown of the 173rd, Meadows of the 5th, and others

A RESOLUTION

1 Affirming the State of Georgia's rights based on the Jeffersonian principle of nullification to
2 nullify a federal law that violates the United States Constitution; and for other purposes.

3 WHEREAS, the doctrine of nullification is the idea that states have the right to unilaterally
4 render void an act of the federal government that they perceive to be contrary to the
5 Constitution; and

6 WHEREAS, nullification finds its origins in the writings of Thomas Jefferson, most notably
7 his 1798 Kentucky Resolutions, written to protest the Federalist Congress's passage of the
8 Alien and Sedition Acts; and

9 WHEREAS, Thomas Jefferson's Kentucky Resolutions claim that the U. S. Constitution was
10 a compact among the several states whereby the states delegated certain limited powers to
11 the U.S. government; any undelegated power exercised by the U. S. government is thus void;
12 and

13 WHEREAS, at the center of Jefferson's argument is that the federal government is not the
14 final and authoritative judge of its own powers, since that would make the government's
15 discretion, and not the Constitution, the measure of those powers, but rather it is the
16 individual states as parties to the Constitution of the Union that have an equal right to judge
17 for themselves whether their rights under the Constitution have been violated as well as "the
18 mode and measure of redress" since there is no common judge of such matters among them;
19 and

20 WHEREAS, the Kentucky Resolutions use the Tenth Amendment to justify a strict
21 construction of the federal government's powers; any powers not expressly delegated to the
22 U. S. government remain the province of the states or the people, and any exercise of those
23 powers by the federal government is void and can be struck down by the states on that basis;
24 and

25 WHEREAS, Jefferson warns against construing the "necessary and proper" clause so broadly
26 as to justify the assumption of undelegated powers by the federal government; the intent of
27 the clause was only to enable the execution of limited powers, not to indefinitely extend the
28 federal government's scope; otherwise, this part of the Constitution could be used to destroy
29 the whole foundation of that instrument; and

30 WHEREAS, Jefferson counsels the states to be vigilant against violations of the Constitution
31 and not hesitant to strike down unconstitutional measures by Congress or the President; he
32 writes that "free government is founded in jealousy and not in confidence" and therefore
33 urges that "no more be heard of confidence in man, but bind him down from mischief by the
34 chains of the Constitution"; and

35 WHEREAS, it should be made clear that under Jefferson's principle of nullification,
36 secession from the Union is not necessary or advocated and that Jefferson maintains that as
37 a member of the Union each state has the right to challenge acts of the federal government
38 it deems unconstitutional; and

39 WHEREAS, there has perhaps never been a political climate to which Jefferson's lessons
40 regarding the dangers of the federal government's abuse of power have been more relevant
41 than what the United States is currently experiencing; and

42 WHEREAS, as citizens of this country and the State of Georgia, we should take heed of
43 Jefferson's lessons and challenge the authority of federal government on those issues that we
44 as a state deem to be outside the scope of the federal government's authority.

45 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES that
46 the members of this body reaffirm the rights that the State of Georgia has pursuant to the
47 Tenth Amendment of the United States Constitution; and that as a member-state of the Union
48 that is the United States, this body reaffirms that Georgia has the right to legitimately
49 challenge those acts of the federal government that it deems unconstitutional.

50 BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized
51 and directed to transmit an appropriate copy of this resolution to the Governor, Lieutenant
52 Governor, and Speaker of the House and to the President of the United States, Speaker of the
53 U.S. House of Representatives, and President of the U.S. Senate.