

UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT  
WASHINGTON, DC 20001

RUTH BADER GINSBURG  
UNITED STATES CIRCUIT JUDGE

July 27, 1993

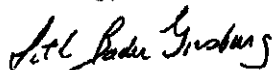
The Honorable Strom Thurmond  
Senate Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Senator Thurmond:

Your questions about the Tenth Amendment were forwarded to me yesterday. I enclose a response, which I hope you will find satisfactory.

With appreciation for your interest.

Sincerely,



Ruth Bader Ginsburg

Enclosure

Response by Ruth Bader Ginsburg to Written Questions  
of Senator Strom Thurmond, received July 26, 1993

In response to the four questions you asked about the Tenth Amendment, I have several overlapping thoughts and therefore hope you will find this composite answer satisfactory. The plan for dual sovereignty, confirmed in, and reinforced by the Tenth Amendment, is a core part of our Nation's history and an important reason for our Nation's success. Justice Black, in *Younger v. Harris*, 401 U.S. 37 (1971), spoke eloquently on this subject when he referred to the essential character of "Our Federalism." Many other Justices have expressed similar views over the years. "Our Federalism" has inspired foreign systems, notably, the European Economic Community members, and the motivating spirit of the Tenth Amendment should continue to contribute to the greatness of the United States.

As you note, the Tenth Amendment is vital to the Constitution's separation of powers scheme. The separation for which the Founders provided is indicated both by the tripartite structure established in the first three Articles of the Constitution, and by the Tenth Amendment. Further recognition of the sovereignty of the states is contained in the Guarantee Clause of Article IV, section 4.

Today, as in earlier years, the Tenth Amendment serves as a basic reminder -- first to Congress and then to the courts in interpreting congressional actions -- that the national government is one of limited powers and that the sovereignty of the states is a cornerstone in our constitutional structure. In specific application, the Amendment requires Congress to be clear and careful when it considers displacement of state authority with federal programs; and it requires the courts to insist on such clarity in cases involving claims that Congress has pre-empted state legislative, regulatory, or judicial authority.

WRITTEN QUESTIONS FOR RUTH BADER GINSBURG  
FROM SENATOR HERB KOHL

1. My home state of Wisconsin has taken a lead in allowing televised court proceedings. So I was especially pleased with your support for allowing cameras in the courts when you discussed this matter with Judge Heflin yesterday and with Senator Hatch today. But I'm not sure precisely where you stand with respect to televising Supreme Court oral arguments.

Almost two years ago, Justice Thomas told this Committee that "it would be good for the American public to see what's going on there" -- meaning the Supreme Court.

**QUESTIONS:** Do you agree with Justice Thomas? Do you personally support televising Supreme Court oral arguments?