

AMERICAN PHILOSOPHICAL SOCIETY

held at Philadelphia  
for Promoting Useful Knowledge.  
(Founded 1743.)

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104 South Fifth Street.

March 11th, 1910

Hon. George Sutherland,

United States Senate,

Washington, D. C.,

My dear Sir:-

I have read with a great deal of interest your article in the March North American Review on the Internal and External Powers of the National Government, and all the more, because at the American Philosophical Society, we have recently discussed and decided on a topic for the Phillips Prize Fund.

The Committee, consisting almost all of lawyers and myself ex officio as President of the Society, considered several topics and finally settled upon this: "The Treaty-Making Power of the United States and the Methods of its Enforcement in Relation to the Police Power of the States". We were led to select this topic because of the International complications that have arisen with Italy, China, Japan, and other nations in consequence of murder and other assaults upon their citizens, for which, naturally, the aggrieved power has applied for redress to the national government.

So far as I know (I am not a lawyer) the reply has almost always been that the state administration was taking the necessary steps to bring the criminals to justice,

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etc. In some cases also indemnities have been paid, whether by the state or the national government, I do not know.

A foreign government knows nothing of our individual states and the administration of law by their courts. It looks to the nation and rightly so. So far as I know there has never been any authoritative termination of the relation of a treaty to state laws. Your article is very just and to me very convincing, and clearly would indicate, though it does not in express terms states this fact, that a treaty in supreme and over-rides any state law in conflict with it. "It is time we realize not in phrases alone, but in fact that the government of the United States is perfect in all its limbs and not a cripple among the full-grown governments of the world."

Following this statement on p.382, I have marked a number of sentences which sustain the same view.

I always say, and I am glad to see that the Outlook follows the same rule "the United States is" and not "the United States are".

My reason for writing you, however, is not only to express my gratification at the article and the information it has given me, but to say that the American Philosophical Society is about to issue a notice that on or before January 1st, 1912, it will receive essays on the subject above alluded to and will award a prize of \$2000. to the crowned essay. The conditions will be stated in the printed circular, of which I will be glad to send you one or more copies. Of course all essays must be

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anonymous, but with a motto, the name of the author being sent in a sealed envelope with the corresponding motto upon it.

It has occurred to me that you yourself, having given evidently much time and thought to this subject, might be willing to put your thoughts in the form of a much more elaborate essay than your article in the Review, or if not, that you might know some lawyer who would like to treat the subject.

We have given, you observe, over a year and a half so that anyone desiring to write on the subject would have ample time to look up all needful authorities and precedents.

Yours very truly,

W.M. Keen

President,  
1729 Chestnut Street.