

AMERICAN CONSTITUTIONALISM
VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 9: Liberalism Divided – Judicial Power and Constitutional Authority

Commonwealth ex rel. Carroll v. Tate, 442 Pa. 45 (PA 1971)

The late 1960s were a time of fiscal crisis for many American cities. Philadelphia was no different. Consistent with state law, the Court of Common Pleas, the local trial court with oversight of the municipal courts, submitted a budget request of nearly \$20 million to the finance director of the city of Philadelphia in 1969. The finance director cut about \$3 million from that request. Mayor James Tate proposed that reduced amount to the city council. At that point, the court asked the city council for some \$5 million more than the mayor's request, but the council adopted the mayor's budget. Presiding Judge John Carroll, on behalf of the Court of Common Pleas, responded by seeking a writ of mandamus from the state supreme court ordering the city council to provide the additional \$5 million. The state supreme court appointed a judge from the intermediate state appellate court to hold a hearing and make an initial ruling on the suit. During those hearings, the Court of Common Pleas reduced their request to just under \$4 million above what the city council had appropriated (partly reflecting the passage of time and the shrinking of the fiscal year in question). The judge ordered the city to pay nearly \$2.5 million above the original budget. Both parties appealed to the state supreme court, which affirmed the lower court's order (while modifying the amount awarded to reflect the further passage of time).

The court's decision rested on a claimed "inherent power" of the judiciary to order the production of resources "reasonably necessary" for the maintenance of the courts. Over the course of American history, this sort of inherent power had primarily been used by local judges to commandeer specific necessary items, such as an air conditioner for a jury room or a clerk to assist a judge. This case marked a path-breaking effort by an appellate court to use the power to overturn the basic budget decisions of a legislative body. The court grounded its claim in the constitutionally guaranteed independence of the judiciary and the constitutional mandate that the courts remain open and available to the state's citizens.

If the three branches of government are equal and independent, why does the legislature control the budgets of the judicial and executive branch? Who should judge what funds are reasonably necessary to sustain judicial operations? Does reasonable necessity depend on the overall fiscal situation? The state legislature placed budgetary responsibility for the state trial courts in the hands of the city council, while the appellate courts were funded by the legislature. Does this bifurcated budget process strengthen the hand of the Court of Common Pleas in trying to override the city's judgment? Could the executive branch assert the same authority that the court asserts in this case? The state constitution also mandates that a public school system be maintained. Could the courts order the state legislature to provide whatever funds the Philadelphia school board determined was reasonably necessary in any given year?

BELL, C.J.

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It is a basic precept of our Constitutional form of Republican Government that the Judiciary is an independent and co-equal Branch of Government, along with the Executive and Legislative Branches. . . . The line of separation or demarcation between the Executive, the Legislative and the Judicial, and their respective jurisdiction and powers, has never been definitely and specifically defined, and perhaps no

clear line of distinction can ever be drawn. However, we must, of necessity, from time to time examine and define some of the respective powers within these undefined boundaries.

Because of the basic functions and inherent powers of the three co-equal Branches of Government, the co-equal independent Judiciary must possess rights and powers co-equal with its functions and duties, including the right and power to protect itself against any impairment thereof. . . .

Expressed in other words, the Judiciary must possess the inherent power to determine and compel payment of those sums of money which are reasonable and necessary to carry out its mandated responsibilities, and its powers and duties to administer Justice, if it is to be in reality a co-equal, independent Branch of our Government. This principle has long been recognized, not only in this Commonwealth but also throughout our Nation. *Leahey v. Farrell* (PA 1949). . . .

The very genius of our tripartite Government is based upon the proper exercise of their respective powers together with harmonious cooperation between the three independent Branches. However, if this cooperation breaks down, the Judiciary must exercise its inherent power to preserve the efficient and expeditious administration of Justice and protect it from being impaired or destroyed. . . .

[I]n *Leahey*, we reaffirmed the inherent powers of the Judiciary to mandamus the payment of sufficient funds out of the public treasury for the efficient administration of the Judicial Branch of Government. The Court pertinently said:

“Should Commissioners, however, neglect or refuse to furnish funds, or sufficient funds, for reasonable judicial functions, and in consequence the efficient administration of the judicial branch of the government is thereby impaired or destroyed, the courts possess the inherent power to require such necessities to be furnished and to direct payment therefor out of the public treasury. . . . In [an earlier] case, it was held that a judge of a court of common pleas possessed the power to appoint a ‘secretary or clerk’, where no statutory provision existed for such appointment, at a salary fixed by the court, to be paid by the county. The only limitation on this power was held to be that such appointment should be reasonably necessary. This decision is an accurate statement of the law, with which we are in complete accord.

. . . . Should the legislature, or the county salary board, act arbitrarily or capriciously and fail or neglect to provide a sufficient number of court employees or for the payment of adequate salaries to them, whereby the efficient administration of justice is impaired or destroyed, the Court possesses inherent power to supply the deficiency. Should such officials neglect or refuse to comply with the reasonable requirements of the court, they may be required to do so by mandamus.”

Leahey correctly holds (by necessary implication) that the burden is on the Court to establish that the money it requests is reasonably necessary for “the efficient administration of justice.” If a Court is unable to provide an efficient administration of Justice because of insufficient funds to have adequate personnel, or reasonable salaries for personnel, or for other necessary Court administration services, or for construction and maintenance of essential Court facilities, then our whole system of Justice and its administration will undoubtedly be greatly impaired, if not destroyed.

The confidence, reliance and trust in our Courts and in our Judicial system on the part of the Bench and the Bar, as well as the general public, have been seriously eroded. We cannot permit this to continue. . . .

Defendants contend, inter alia, that the overall problem of financial difficulties which undoubtedly confront and harass the City of Philadelphia should be considered in determining what is “reasonably necessary” for the “efficient administration of Justice by the Courts.” The demand, often amounting to necessity, for additional funds for both the maintenance and the improvement of public services and general public welfare, and the essential increases in wages, and the unfortunate rise in costs

of nearly every description, is widespread. Nevertheless, the deplorable financial conditions in Philadelphia must yield to the Constitutional mandate that the Judiciary shall be free and independent and able to provide an efficient and effective system of Justice.

....

.... A Legislature has the power of life and death over all the Courts and over the entire Judicial system. Unless the Legislature can be compelled by the Courts to provide the money which is reasonably necessary for the proper functioning and administration of the Courts, our entire Judicial system could be extirpated, and the Legislature could make a mockery of our form of Government with its three co-equal branches -- the Executive, the Legislative and the Judicial.

....

We agree with Judge Montgomery's conclusion that "the amount recommended by Mayor Tate and approved by Council is inadequate to meet the reasonable needs of the Court [of Common Pleas] for the present fiscal year." . . .

Judgment . . . is *affirmed*.

JUSTICE JONES, concurring.

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.... [T]he majority essentially holds that whatever amount is "reasonably necessary" for judicial administration must be awarded even though the City may have no available funds. With this proposition I cannot agree; in my opinion, the computation of a "reasonably necessary" amount must consider the financial resources available to the city. However, the record demonstrates that these additional funds have already been set aside and that the City of Philadelphia will not be forced into "involuntary bankruptcy." It is for this fact that I am able to concur.

....

Predictably, a future City Council could then be swamped by "reasonably necessary" requests from the Police Department, Sanitation Department, Recreation Department and all other departments of the Executive branch [which is also a coequal, independent branch]. Unquestionably more money would enable each of these departments to better serve the community. However, the sum of these "reasonably necessary" requests may very well, in some future instance, exceed a municipality's available revenue resources. Projecting the present majority's original premise and realizing all three branches operate in an imperfect world, I must take issue with the majority's overly optimistic precedent.

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JUSTICE POMEROY, concurring.

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.... As the opinion of the Court points out, . . . the court system in Philadelphia is not just another competing cause or need; it is itself a separate branch of government, coequal with the executive and legislative branches headed by the defendants in this case. The distinction is one not of degree, but of kind. No doubt the courts must be mindful, in making the estimates of their financial needs, of the needs of the total community and of the problems of the legislative branch in funding them; but the courts having made their determination as being reasonably necessary to performance of their constitutional functions, it is not for the legislative branch to deny the reasonableness or the necessity on the ground that something else is more urgent or more important.

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JUSTICE ROBERTS, dissenting (in part).

I concur in the main with the majority's disposition of this appeal. The Judiciary has the power to command reasonably necessary funds, not only because of its intended status as an independent and co-equal branch of government but also by virtue of the clear mandate of Article 1, Section 11 of the Pennsylvania Constitution, which provides: "All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. . . ." It is evident that these fundamental guarantees could not be honored if the Judiciary were without reasonably adequate resources.

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[T]he proposed bail project presents a rare and realistic opportunity to improve the administration of justice and minimize the social costs of pretrial imprisonment, all at a substantial savings to the taxpayers. For this reason, I would allow the funds requested by the Philadelphia Court of Common Pleas for its implementation and dissent from the majority's disallowance of those funds.



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