

An American Citizen IV: On the Federal Government, Philadelphia, 21 October 1787

Both the old and new foederal constitutions, and indeed *the constitution of Pennsylvania*, admit of courts in which no use is made of a jury. The board of property, the court of admiralty, and the high court of errors and appeals, in the state of Pennsylvania, as also the court of appeals under the old confederation, exclude juries. *Trial by jury will therefore be in the express words of the Pennsylvania constitution, "as heretofore,"—almost always used, though sometimes omitted.* Trials for lands lying in any state between persons residing in such state, for bonds, notes, book debts, contracts, trespasses, assumptions, and all other matters between two or more citizens of any state, will be held in the state courts by juries, *as now*. In these cases, the foederal courts *cannot interfere*. But when a dispute arises between the citizens of any state about lands lying out of the bounds *thereof* or when a trial is to be had between the citizens of any state and those of another, or the government of another, the private citizen will not be obliged to go into a court *constituted by the state*, with which, or with the citizens of which, *his dispute is*. *He can appeal to a disinterested foederal court*. This is surely a *great advantage*, and promises and an *impartial judgment*. The trial by jury is *not excluded* in these foederal courts. In all *criminal* cases, where the property, liberty or life of the citizen is at stake, he has the benefit of a jury. If convicted on impeachment, which is never done by a jury in any country, he cannot be fined, imprisoned or punished, but only may be *disqualified* from doing public mischief by losing his office, and his capacity to hold another. If the nature of his offence, besides its danger to his country, should be *criminal* in itself—should involve a charge of fraud, murder or treason—he may be tried for such crime, but cannot be convicted *without a jury*. In trials about property in the foederal courts, which can only be *as above stated*, there is nothing in the new constitution *to prevent a trial by jury*. No doubt it will be the mode in every case, wherein it is practicable. This will be adjusted by law, and it could not be done otherwise. In short, the sphere of jurisdiction for the foederal courts *is limited*, and that sphere only is subject to the regulations of our foederal government. The known principles of justice, the attachment to trial by jury whenever it can be used, the instructions of the state legislatures, the instructions of the people at large, the operation of the foederal regulations on the property of a president, a senator, a representative, a judge, as well as on that of a private citizen, will certainly render those regulations as favorable as possible to *property; for life and liberty are put more than ever into the hands of the juries*. Under the *present* constitution of all the states, a public officer may be condemned *to imprisonment or death* on impeachment, *without a jury*; but the new foederal constitution protects the accused, till he shall be convicted, from the hands of power, by rendering *a jury the indispensable judges of all crimes*.

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