

Boston American Herald, 7 January 1788

This unlucky Constitution contained a clause of Judiciary Power, which provided, that there should be one Supreme Judicial Court, over the United States, and Inferiour Courts in each State. This Supreme Court was to have original jurisdiction of many public causes, appellate jurisdiction of all causes of law and *equity, arising under that Constitution and the laws of the United States, and to all causes between citizens of different States, and between subjects of foreign States, and citizens of the United States.*

The chicane of Lawyers, by making nominal pla[i]ntiffs and defendants, who lived in other States, and the removal of citizens from one State to another, threw all the business into Courts of Congress, the Lawyers emoluments were rendered more certain, and enlarged, the power of the Courts of Congress encreased from day to day, while those of the separate States diminished proportionably.—The Congress having an unlimited controul over imposts, excises and taxes, left each State without revenue to support, a civil list. Their Governours and Judges were at length made of men, who either accepted authority to yield it for a price to the general Government, or of men too weak and unlearned to oppose the overflowing encroachments of Congress. A few Patriots yet dared to advocate the freedom of the people, but they were thrown into prison by state warrants; the grand jurors had courage enough in some States to indict the High Officers of Government, and the petit jurors had firmness enough to convict them; but, the President pardoned his servant, his ministers of justice. Actions of tre[s]pass were brought by the sufferers; but as the Constitution had provided that the Judges of the United States should, in civil actions, have cognizance both as to *law* and *fact*, the trial by jury was excluded; and these sufferers had to pay costs to the Tyrants who had oppressed them.—I the writer, though now white with age, was, at that time, in the vigour of manhood; and contended for a trial by jury, as the sacred Palladium of Liberty.—I produced the former complaints of Congress in their addresses to the King, of his taking away the trial by jury, and of his establishing on these principles a Government in Canada.—I shewed the addresses of Congresses and Courts to the people on this point; and urged, in vain, to the distracted and depraved people, the blood which had been expended for that Freedom, which, without this priviledge, is all but vanity and a lie. It was not then foreseen, by many who loved their country, that giving this judicial power, implicitly extended the legislative powers of Congress to all the objects within the judicial circle.—Hence arose a power of legislation for the mode of inheritances, for limitation of actions, and for the government of all property, for the High Court of the Union could not be controuled by laws of separate States, which were stript of all their sovereignty, and reduced to mere Corporations; even Probate Courts were rendered useless, because the division of dead mens estates, were commonly to be made between heirs and creditors who lived in different States.

These strong observations might have wrested the progress of this Monster of Slavery, but its advocates answered them all, by saying, *Congress must be trusted, and Congress would do right*,—In vain it was urged, that such arguments proved too much—they proved all Constitutions and checks in Government to be unnecessary.—For if the Congress could be trusted with unlimited power in these important points, why not in all things?

Oh, my countrymen! it might well be said to you, "*whom GOD intends to destroy, he first bereaves of Reason.*"

Thus overloaded with business, and gorged with jurisdiction, this Court became too bloated to go to the extensive circuit of all America; they were therefore only seen at the city of Congress, the Lawyers of Eminence all resided there, and were crouched to by pettyfoggers of distant Districts.—The effects of justice were felt by the remote Peasants of Massachusetts, in a very unjust manner; but the forms of justice were no more seen by them.—In fine, ignorance pervaded all ranks of men, the light of science blessed but a few, and these were demagogues of course; all now became impatient for one change more to gain ease, and they are easily perswaded that Despotism, according to Judge M’Kean, is the best of all possible Governments.

It is said, the writer of the above Libel is fled to the kingdom of Spain for protection, as there is no trace of Liberty in lost AMERICA.

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