

Hugh Williamson: Speech at Edenton, N.C., New York *Daily Advertiser*, 26 February 1788

...It is complained that the powers of the national Judiciary are too extensive. This objection appears to have the greatest weight in the eyes of gentlemen who have not carefully compared the powers which are to be delegated with those that had been formerly delegated to Congress. The powers that are now to be committed to the national Legislature, as they are detailed in the 8th section of the first article, have already been chiefly delegated to the Congress under one form or another, except those which are contained in the first paragraph of that section. And the objects that are now to be submitted to the Supreme Judiciary, or to the Inferior Courts, are those which naturally arise from the constitutional laws of Congress. If there is a single new case that can be exceptionable, it is that between a foreigner and a citizen, or that between the citizens of different States. These cases may come up by appeal. It is provided in this system that there shall be no fraudulent tender in the payments of debts. Foreigners, with whom we have treaties, will trust our citizens on the faith of this engagement. And the citizens of different States will do the same. If the Congress had a negative on the laws of the several States, they would certainly prevent all such laws as might endanger the honor or peace of the nation, by making a tender of base money; but they have no such power, and it is at least possible that some State may be found in this Union, disposed to break the Constitution, and abolish private debts by such tenders. In these cases the Courts of the offending States would probably decide according to its own laws. The foreigner would complain; and the nation might be involved in war for the support of such dishonest measures. Is it not better to have a Court of Appeals in which the Judges can only be determined by the laws of the nation? This Court is equally to be desired by the citizens of different States. But we are told that justice will be delayed, and the poor will be drawn away by the rich to a distant Court. The authors of this remark have not fully considered the question, else they must have recollected that the poor of this country have little to do with foreigners, or with the citizens of distant States. They do not consider that there may be an Inferior Court in every State; nor have they recollected that the appeals being *with such exceptions, and under such regulations* as Congress shall make, will never be permitted for trifling sums, or under trivial pretences, unless we can suppose that the national Legislature shall be composed of knaves and fools. The line that separates the powers of the national Legislature from those of the several States is clearly drawn. The several States reserve every power that can be exercised for the particular use and comfort of the State. They do not yield a single power which is not purely of a national concern; nor do they yield a single power which is not absolutely necessary to the safety and prosperity of the nation, nor one that could be employed to any effect in the hands of particular States. The powers of Judiciary naturally arise from those of the Legislature. Questions that are of a national concern, and those cases which are determinable by the general laws of the nation, are to be referred to the national Judiciary, but they have not any thing to do with a single case either civil or criminal, which respects the private and particular concerns of a State or its citizens...

Cite as: The Documentary History of the Ratification of the Constitution Digital Edition, ed. John P. Kaminski, Gaspare J. Saladino, Richard Leffler, Charles H. Schoenleber and Margaret A. Hogan. Charlottesville: University of Virginia Press, 2009.

Canonic URL: <http://rotunda.upress.virginia.edu/founders/RNCN-03-16-02-0071> [accessed 14 Jan 2013]

Original source: Commentaries on the Constitution, Volume XVI: Commentaries on the Constitution, No. 4