

or nullity of a law would be urged. I have, therefore, deliberately considered the subject, and I am ready to explain my reasons for concluding that the petit jury have not a right to decide on the constitutionality of a law, and that such a power would be extremely dangerous. Hear my words: I wish the world to know them—my opinion is the result of mature reflection.

[Here the JUDGE then read part of a long opinion, to show that the jury had not the right contended for; after which, he told the counsel for the traverser that he would hear with pleasure any arguments which could be urged to show that he was mistaken.]

*Mr. Wirt.* I shall state to the court, in a few words, the reasons which have induced me to ascribe this right to the jury. They are sworn to give their verdict according to the evidence, and the law is evidence; if the jury have no right to consider the law, how is it possible for them to render a general verdict? Suppose, for example, an indictment for murder—how can the jury pronounce a verdict of guilty, or not guilty, if they have not the right as well of ascertaining whether the facts have been committed, as whether they amount to a breach of law? This doctrine is too clearly established to require the aid of authorities.

JUDGE CHASE. No man will deny your law—we all know that juries have the right to decide the law, as well as the fact—and the Constitution is the supreme law of the land, which controls all laws which are repugnant to it.

*Mr. Wirt.* Since, then, the jury have a right to consider the law, and since the constitution is law, the conclusion is certainly syllogistic, that the jury have a right to consider the Constitution.

JUDGE CHASE. *A non sequiter, sir.*

*Mr. Nicholas.* I am so much under the influence of duty that, though I am in the same situation with the gentleman who preceded me, and though the court seem to be impressed with the opinion, that the jury have no right to determine on the constitutionality of an act of Congress, yet, arduous