

The effects of the exercise of this power by petit jurors may be readily conceived. It appears to me that the right now claimed has a direct tendency to dissolve the Union of the United States, on which, under Divine Providence, our political safety, happiness and prosperity depend.

No citizen of knowledge and information, unless under the influence of passion or prejudice, will believe, without very strong and indubitable proof, that Congress will, intentionally, make any law in violation of the Federal Constitution, and their sacred trust. I admit that the Constitution contemplates that Congress may, from inattention or error in judgment, pass a law prohibited by the Constitution; and, therefore, it has provided a peaceable, safe and adequate remedy. If such a case should happen, the mode of redress is pointed out in the Constitution, and no other mode can be adopted without a manifest infraction of it.

Every man must admit that the power of deciding the constitutionality of any law of the United States, or of any particular state, is one of the greatest and most important powers the people could grant.

Such power is restrictive of the legislative power of the Union, and also of the several states; not absolute and unlimited, but confined to such cases only where the law in question shall clearly appear to have been prohibited by the Federal Constitution, and not in any doubtful case. On referring to the ninth section of the first article of the Constitution, there may be seen many restrictions imposed on the powers of the national legislature, and also on the powers of the several state legislatures. Among the special exceptions to their authority, is the power to make *ex post facto* laws, to lay any capitation, or other direct tax, unless in proportion to the census; to lay any tax or duty on articles exported from any state, etc.

It should be remembered that the judicial power of the United States is co-existent, co-extensive, and co-ordinate with, and altogether independent of, the Federal legislature, or the executive. By the sixth article of the Constitution,