

If this exposition of this solemn obligation is substantially correct, I cannot believe that any person having the same understanding of it, will maintain that a petit jury can rightfully exercise the power granted by the Constitution to the Federal judiciary.

From these considerations I draw this conclusion, that the judicial power of the United States is the only proper and competent authority to decide whether any statute made by Congress (or any of the state legislatures) is contrary to, or in violation of, the Federal Constitution.

That this was the opinion of the Senate and House of Representatives, and of General Washington, then President of the United States, fully appears by the statute, entitled "An act to establish the judicial courts of the United States," made at the first session of the first Congress (on 24th September, 1789, chap. xx, sec. 8), which enacts, "that the justices of the Supreme Courts, and the district judges, shall take an oath or affirmation in the following words, to-wit:

"I, A. B., do solemnly swear or affirm, that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as such judge, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States."

No position can be more clear than that all the Federal judges are bound by the solemn obligation of religion, to regulate their decisions agreeably to the Constitution of the United States, and that it is the standard of their determination in all cases that come before them.

I believe that it has been the general and prevailing opinion in all the Union, that the power now wished to be exercised by a jury, properly belonged to the Federal courts.

It was alleged that the tax on carriages was considered by the people of this commonwealth to be unconstitutional, and a case was made to submit the question to the Supreme Court