

of the United States, and they decided that the statute was not unconstitutional, and their decision was acquiesced in.

I have seen a report of a case (*Kemper v. Hawkins*) decided in 1793, in the general court of this commonwealth, respecting the constitutionality of a law which gave the district courts a power of granting injunctions in certain cases, in which case the judges of the general court (four to one) determined that the law was unconstitutional and void. On yesterday I saw the record of another case, in the Court of Appeals of this commonwealth (in 1788), on which it appears that the general assembly passed "An act to establish district courts," and the judges (ten being present), adjudged "that the Constitution and the said act were in opposition, and could not exist together, and that the court ought not to do anything officially in the execution of an act, which appeared to be contrary to the spirit of the Constitution." I also observed, that the then governor, Mr. Edmund Randolph, immediately on this decision called the general assembly by proclamation; and I have been informed that they altered the law according to the opinion of the court.

From these two decisions, in the two highest courts of justice in this state, I may fairly conclude, that, at that period, it was thought that the courts of justice were the proper judicature to determine the constitutionality of the laws of this commonwealth. It is now contended, that the constitutionality of the laws of Congress should be submitted to the decision of a petit jury. May I ask, whence this change of opinion? I declare that the doctrine is entirely novel to me, and that I never heard of it before my arrival in this city. It appears to me to be not only new, but very absurd and dangerous, in direct opposition to, and a breach of the Constitution. And I wish those who maintain this doctrine, and have sworn to support the Constitution, conscientiously to reconsider their opinions with a calm and deliberate temper, and with minds disposed to find the truth, and to alter their opinion if convinced of their error.

It must be evident, that decisions in the district or circuit