made of profession and trial was provided. The money was offered to a butcher in market for his meat; it was refused. An action was brought for the penalty. And I now see in his place an honorable member of this house, and a judge of the Supreme court of this state, who concurred with the rest of the judges of that court, in declaring the law to be unconstitutional and void.

The conference was, that the judges were summoned to appear attendance before the legislature, to answer for their conduct; and it was with the greatest difficulty, that the legislature were prevented from dissolving them without hearing their defence. I remember to have, that both has been and such will be, the conduct of legislatures. Such might always to be the conduct of judges, and this can with certainty be effected in no other way, than by entrusting them independent of the legislature, subject only to be removed by impeachment. But, sir, I beg leave again to refer to the amendments which were proposed yesterday, in the state of Virginia, at the time of its adoption, to show what was the tenor of those demands, and what was the importance of the independence of the judiciary, to the liberties of the people of this country. In the declaration of rights proposed by the convention of the State of Virginia, I find no little article in their system, "that the legislative, executive, and judiciary powers of government should be separate and distinct, and that the members of the two first may be restrained from oppression by feeling and participating the public burdens they shall impose, and the judiciary from power illusion, injure into the rain of the people, and the vacancies be supplied by regular and repeated elections." Then, sir, the doctrine of the republican party of that state, and of the whole people, did not prevail in Virginia. It was not then thought necessary, that the judiciary should remain to the end of the people, to restrain them from oppression. The convention of the State of Northampton, recommended a bill of rights to an amendment to the constitution, containing precisely the same words. And to render the judges as independent as possible, the convention of Northampton State recommend an alteration, that the salaries of the judges should not be increased or diminished, during their continuance in office. Why then can any that a limitation of the legislative power of the intended by those who adopted the constitution? And, sir, it was known to those who framed the constitution. Gentlemen admit, that the words in the 3d section, art. 3, of the constitution, "The judges both of the supreme and inferior courts, shall hold their offices during good behaviour; and shall at fixed times receive for their service a compensation, which shall not be diminished during their continuance in office" were declared to secure the independence of the judges while in the exercise of their official duties, acting as the office continues. Let me ask, gentlemen, if this construction that you may abolish the office, this end is really attained? Is what could the independence of the judge? Is conflict in having his mind elevated above the fear of any consequence, refusing to have recourse to any sophist and imperial judgment; an act so bold as to frustrate at the first wind wrought upon, directly or indirectly, by any other authority than those acting from the justice of the cause which he is about to decide. Confining the indemnities of this nature, the framers of the constitution intended it necessary in order to secure the independence entirely important, that the judge should know, that he has stood in an office, provided he is capable he shall not be deprived of his office, nor suffer a diminution of his salary. Have I, sir, ask, what difference in effect there can be upon the mind of a judge, while in the administration of justice, to know that in consequence of the decision which he is about to make, a function will be taken from him or taken from his office? Will not the effect be precisely the same in both cases, as the other? In the other cale the office and the judge are separated from each other. Upon the consideration given to this part of the constitution, by the friends of the bill, the judge is not to be *barred out of office*, nor to be *forcibly dismissed*, left his independence should be impaired; and yet he is to exist to exercise judicial functions, and to create to receive his salary if he decides against the wishes of the legislature, and still be *independent*! If the constitution meant to secure the independence of the judges, *while in office*, let gentlemen apply to it, one rule of construction of instruments of writing, to confine it to its eagle value, grammatical and the literal sense. Is it confined, if upon their construction, the construction which the constitution is acknowledged to have had in view, is attained? But if the gentlemen from Virginia, (Mr. Giles) can avail the force of the first part of the sentence, "the judges shall hold, &c.; by considering said as implying power under the president, and not operating as a limitation upon legislature power; how does he avoid the second? "They shall at fixed times receive for their services a compensation which shall not be diminished, but I am sensible it has been attempted, by saying, that compensation is given for services rendered, and if you deprive the judges of the power of rendering services, you deprive them of their salary, the compensation ceases of course. But I apprehend you cannot easily effaciate with his services. If you abolish the court in which he ordinarily administers justice, he may still grant commissions of bankruptcy, plus judicial writs and perform numerous other services. Bear in mind, the plain language of the constitution is thus dangerous may from the situation may be such in some inferior courts, but never *less* in the supreme court. Gentlemen, if you may, if you please, alter, modify, change, or transfer jurisdiction from one court to another, and if you may do so upon this subject, shall always or shall not be a direct regard to the inflexibility of the judges, severely in office. And if you with entirely to change the organization of government, and to abolish, when the officers of the judgment expire, or with reference to the beginning of the year, Nov. 1801, consistently with the judge of all judicial authority, continuing in office, and receiving the salary, when on his office, no deprive him, both of office and salary. Upon any other ground than a breach of the duties of office intended to secure the independence of the judges, I ask, what is the constitution worth? The word *bold* is, upon which the gentleman from Virginia, (Mr. Giles) has so much stress, does not support this construction. It applies to the tenure, not to the duties of the office, and the *thing bold*, which can no more be defined in one way than in another. Aliment, bold to say to the end, are alike forbidden.

The opinions from Massachusetts (Mr. Bacon) has declared a court to be an institution for the administration of judicial and that the power of the legislature of a court without a judge, that of a legislature without legislators. [Mr. Bacon, here said, he was not responsible for the definition.] He took it from the gentleman from Virginia, (Mr. Hemphill.) He did not fly without judges, but without offices. Mr. Gouverneur, in the state of New-York, left the force of the gentleman's sophistry, when he said, that the abolition of a court necessarily put down a judge—The gentleman quoted the 3d section, 3d art. of the 3d of Anne, which abolished certain courts, as a precedent, and as a judge, in fact, of the law. But the abolition of a court does not necessarily imply that a judge is out of office, if the office is to be continued. Congress by law each court, gave each court, and gave each court office; but this done, judge cannot be authorized to sitting, until afterwards the act of Congress, which gave the court pointed. The extract courts, organized before the act of the bill filled, were, in fact, the judges of the supreme court, filled by *district judges*. Abolishing the courts, and the office of the judges of the supreme court, or the district judges; each retained independent judges, continuing the tenure of office, the duties of the institution is nothing; and I very much question whether the judges of the supreme court may not be changed.—The constitution, it is true, has said that there shall be one supreme court; it has said that there shall be one court, *superior* or *inferior*, and it has said, that the judges called by what name you please! But it has been said, upon the same principle of logic, that the abolition of a court is part of its jurisdiction; you may wish to see the whole, and leave a naked judge without a court, and yet preserve his duty. This does not follow. As I have given reasons why I think it proper to many judicial functions without a court to fit in; and I have also remarked, that the power to erect new tribunals from time to time" was always to be exercised with discretion.—Such institutions does not go on the ground that it will be abolished, that new courts will immediately be erected. Their power is otherwise limited than by enjoining it upon the legislature, to do all which is necessary for the subject, with an eye to the independence of judges already in office.

To aid us, Sir, in our construction of the constitution of the United States, I ask the State. To see the attention of the committee, for a few moments, to some notice of the constitution of the state of Virginia, the doctrine for which I now contend. Some of the State constitutions expired in their perfect form, antecedent to the adoption of the constitution of the United States, and some have been formed since the adoption of the constitution of New-Hampshire, and the state of Virginia, and the state of Vermont, and the state of New-Jersey, and the state of Maryland, and the state of Pennsylvania, and the state of Delaware, and the state of Georgia, and the state of Kentucky, and the state of Tennessee, and the state of Ohio, and the state of Vermont, and the state of Massachusetts, and the state of New-York, and the state of Virginia