words. "I agree, that the writ of error, Daniel L. Hylton against the United States, which is now depending before the supreme court of the United States, be heard and determined at the approaching session of that court. I certify this agreement, that the cause may not be continued on my account; my object in contesting the law upon which the cause depends, being merely to ascertain a constitutional point, and not by any means to delay the payment of a public debt."

DANIEL L. HYLTON.

Virginia, January 25th, 1796."

The supreme court affirmed the judgment of the circuit court in this cause, and thereby decided in favour of the validity of the act of congress. Three gentlemen were engaged to assist the attorney general, as council in behalf of the United States. One of these gentlemen was from Virginia; another, from Pennsylvania; and another from New-York. It was a cause of peculiar interest and expectation. The constitutional validity of the act of congress, for raising revenue, was to receive a final decision before the highest court in the United States.

On examining the annual statement of receipts and expenditures for 1796, it appears, that the sums paid to the three gentlemen, for their professional assistance, amount to nearly a thousand dollars. (The precise amount was 966 dollars and 66 cents). There is no room to question, that all this was well understood at the time. The statement was printed and laid before congress. The payment to the gentleman from Virginia (whose name is first mentioned in the statement) is expressly said to be "for his fees as agreed with the attorney general, for arguing the causes before the supreme court in February term 1796, respecting the constitutionality of the act imposing duties on carriages.'

You here find, the principle was so fully admitted that the constitutionality of a revenue law was submitted to the decision of the supreme court; and with the full knowledge and sanction of congress, the sum of nearly a thousand dollars was paid to counsel, on behalf of the United States, for assisting the attorney general in defending the act as constitutional.

The principle, therefore, which is now disputed has been settled for years. It is the established principle of the constitution.

What then is the question under debate? It is a question between the whole people of the United States, on the one part, and their delegated authorities on the other. Shall the constitution continue to be what the whole American people have made it, or shall it be whatever the congress and President may choose?

Say gentlemen, Congress must be answerable at the period of election. This is all admitted. But why would you stake the whole control of their power merely on elections? On our part, it is said, let there be all the security which elections can give! but let there be at the same time the further security of the judicial power! If there can be no regular decision of constitutional questions by judicial authority, if there can be no check except elections, what effectual check will finally exist? Why would you diminish the number of securities for the public liberty? This is too precious to be exposed to needless hazard, by abandoning any of the means established for its preservation.

While I speak of liberty, sir, let me not be misunderstood. I do not mean a liberty, the love of which is nothing but a general hatred of control. I mean the liberty which is guided by wisdom, and venerates the maxims of integrity. This is the liberty which should be valued as the political pearl of great price. But it is said, no man will consent to throw away his liberty, and be a slave. Would you therefore leave him no security for his liberty, except elections? Ought there to be no other constitutional barrier against usurpation? Whence is it, that so many of the nations of the earth, after breaking their chains have had them riveted again? Others, before ourselves, have had the right of elections: others have enjoyed the fruits of their industry; they have had public virtue; they have had personal integrity, and wisdom. But to how many of them have their liberties been lost! The French had their elections, perhaps as free as ours; but, we see, they have lost their liberty.

What, Sir, is the fair import of this language about elections? The principle, as far as it is correct, can amount to no more than this, that the majority should control the affairs of government, and that the elections ascertain the sense of this majority. Apply then the principle to this house! How are the representatives apportioned among the several states? A majority of the whole number of free inhabitants in the United States do not elect a majority of the representatives. The owners of slaves, besides other advantages allowed them in the constitution, are privileged to have a greater voice in elections than the free inhabitants who hold no persons in servitude. The state which owns the greatest number of slaves derives a preponderating influence in this house, from having the representatives apportioned according to the whole number of free inhabitants, and three fifths of the persons holden in slavery.

Where then is the constitutional security, for the states whose free inhabitants cultivate their own soil, against the states where the tillage of the earth is the task assigned to their slaves? Compare the multitude of slaves to the south of the Delaware or Potomac, with the small number to be found in any of the states to the north! What is there to counterbalance the advantage given to the states where the slavery of the blacks is most prevalent? The constitutional security is not to be found in the result of the elections, according to the present rule of apportioning representatives. A security might be found in a judicial body, composed of men venerable for their virtue and talents, and placed beyond the reach of this house.

For such a security the constitution was understood to have made provision, when it was ratified in the several states. By what right can you now rescind the compact?

Will gentlemen say, the government cannot go on, if there should be this check against unconstitutional acts? This might be pronounced a bold assertion, when it is remembered, that the government has gone on, and gone on for twelve years, in the exercise of its acknowledged powers, with this principle uniformly admitted in practice, any of the people being at liberty as freemen to object, in court, against any act as unconstitutional; and yet laws have been enacted, and carried into full effect.

If any unconstitutional act is passed, what must be done, for relief against it, according to the plan of gentlemen who advocate the bill on the table? Under all the disadvantages to which the free inhabitants of certain states are liable, in consequence of the number of representatives allowed for three fifths of the slaves, will gentlemen explain in what mode any of those inhabitants are to obtain relief? Must persons be subjected to the operation of an unconstitutional act until the period of elections comes round, and in the mean time, be sending from state to state with a view to influence the electors not to vote for such representatives again?

Instead of all this sufferance, instead of all these efforts, which may at length be found wholly ineffectual for obtaining redress, especially under the present apportionment of representatives, why may not the injured citizen appear before wise and upright judges, and present to them the constitution of his country, and receive from their decision that relief to which he is justly entitled? While there are judges who are dependent on no party, but dependent on the fidelity with which they exercise their functions, men of learning and wisdom, who are placed under no bias from persons in power, but act according to the impulse of duty alone, I should suppose, that they might be trusted to expound your laws, and guard the constitution. Such an establishment is every man's guard against despotism. It is the protection of integrity against violence. It affords a covert against the tempest of party. It is the strength of the feeble against the mighty. Here the honest man might appear with confidence, assured that in trial and in judgment, truth and justice, and these alone, will prevail. Although covered by political clamour, with the opprobrium of guilt, while meriting by his conduct the honors of virtue, he might stand alone, strong in his innocence, and put to confusion an host of accusers.

Yet such an establishment is now complained of as an evil. Those who make the complaint, indeed come forward in the humble guise of respect for the wishes of the people, and claim to hold a control at pleasure over the judges. But who are such novices as to be regardless of the event of compliance with their views? When gentlemen arrogate to themselves a power never claimed before in the United States, it ought to teach them, and others to be cautious. Gentlemen at least ought to hesitate, and reflect, that those who framed and adopted the constitution, and have practised under it, knew something of its true import. If it is now supposed doubtful on this subject, where should we look for the rule of construction, if not to contemporaneous opinions and usage? Usage forms the standard of language. And whatever might be thought of the phraseology of the constitution if now introduced for the first time, yet the sense in which it is known to have been understood, when adopted, and for a period of years immediately subsequent, is that sense of the constitution which we are bound to support.

A number of interesting questions might be expected to arise, when the constitution was formed. They were to be expected from the nature of a system intended to unite in one government a variety of states, each of which were to retain their particular powers. When the system changed from the terms of the confederation to those of the constitution, the riches and the forces of the United States were to be placed directly within the command of the government; and the several states were no longer to have an equal voice in congress, as before. But there were, at the same time, various restrictive provisions, in the constitution, which appear framed to guard against evils that might be apprehended from the change of system. Restrictions were imposed on the powers of congress, and the respective states. Some of the restrictions, undoubtedly, were to guard individuals against public oppression; and some to guard the particular states against the government of the United States, or against each other. Controversies were known to exist between particular states and others might be expected to arise, as well as controversies between a state and the United States. The parties in such controversies would be powerful, each might put armed forces in motion. When provision was to be made for questions of this nature, who could hesitate to acknowledge the importance of establishing an impartial tribunal, beyond the immediate control of either party!—A tribunal, the constitution of which might inspire general confidence, and thereby prevent the recourse to a very different mode of deciding conflicting pretensions. And how were the restrictions on the powers of congress to be rendered effectual, except by the intervention of such a tribunal? In what other mode, could a fair construction of the constitution be uniformly secured to the respective citizens and to the several states? This impartial tribunal, independent of party, and placed beyond suspicion of undue influence, should be formed into a supreme court, vested by the constitution with power to decide in the last resort. Will you say that congress may give a construction to the constitution. So too, a state legislature may give it; and there might be as many constructions as there are state legislatures. Will you then say, that the state legislatures shall submit without reserve, to any construction that may be given by congress? The members of the state legislatures are bound to support the constitution: and may they not judge of their duty as well as yourselves? Will you force them to submit? Remember, the particular states divide the power of the militia with the government of the United States. With respect to the acts of congress, and of the state legislatures, as compared with the constitution, and with respect to the acts of particular states, when in opposition to each other, who shall decide questions so interesting as these. The constitution has provided for having them determined by a supreme court of the United States. But if this court can be put down at pleasure by congress, if the judges of the United States can be divested of office as often as parties change, what will be said by the several states? Will they not be naturally led to attend to the great disproportion between states, and the consequent power of one over the other? Virginia, for example is extensive, and to add to her influence in this house, there are to her representatives allowed for three-fifths of the slaves. With all the preponderance of such a state, could a small state place a reliance on the decisions of this house, where the interests of the two states should be in competition? So too, if a judicial controversy should arise between the preponderating state and one of the smaller members of the union, will the small state have equal confidence in the decision of the judges, if they may at any time be divested of office by act of congress? No, sir! In common sense it will be understood, that the power which may displace the judges at pleasure, and thereby deprive them of subsistence, can be master of the decisions. Establish then the principle of this bill, and who will be the lords of the judiciary? If this principle should be ultimately established, you may look for such lords to the south of the Potomac—You may look for them among the masters of the three hundred thousand slaves that stock the plantations of Virginia.

The establishment of an impartial tribunal to decide on the fundamental principles of the government, is totally unknown under the British monarchy. The opinion of Sir William Blackstone is express, that in one and the same nation, when the fundamental principles of their common union are supposed to be invaded, the only tribunal to which the complainants can appeal is that of the god of battles—the only process by which the appeal can be carried on, is that of intestine war. Sir, it was because there was no such impartial tribunal to check the progress of usurpation, that the appeals to arms have been made in England, 'one monarch was sent to the scaffold, and another was hurled from his throne.' It was not to weep over a fallen monarch, that these examples were mentioned by my friend from North Carolina, (Mr. Stanley). It was to seize the spirit of history, and to remind us of the instruction to be derived from its lessons. It was to prove that when there are great and powerful parties in a country, with arms at command, if there is no impartial tribunal to decide between them, the violence of their prejudices, when provoked, will prompt them to make the extreme appeal.

Sir, is it possible, in the nature of things, that injustice should result from allowing the judges of the United States to be independent of the legislature. If they are once appointed to office, and you have no power to displace them, will not their regard to reputation influence them to do what is right? If they are men of talents, if they understand their duties, and are perfectly secure of being in office, so long as they behave well; if when in office they are rendered completely independent of the party by which they were appointed, there can be but little cause of apprehension respecting the decisions of the judge, whatever may have been the particular politics of the man. Place any gentleman of professional ability in such a situation, and he will know and feel, that he has an official reputation to support, and while he is free from any dependence on party, he must be weak indeed if he will sacrifice his character and rights of office, by submitting to be but the tool even of the party by whose influence he was appointed.

In the course of observations which have been made by some of the advocates of the present bill, there has ben mention of what could be done in the case of extreme events. I hope, none of the opposers of the bill have any idea of doing any thing unbecoming his situation, or injurious to the country. But it is not the part of wisdom to be blind to the tendency of measures. It therefore cannot be improper to reflect on the probability, if there is no independent judiciary, of seeing the states at length brought into collision. Unless there is a common tribunal which they will believe to be impartial, and to which they resort for settling the constitutional distinctions between their respective powers in a satisfactory manner, what must be the event but a return to the state of things under the confederation, or a worse, as my friend from North-Carolina (Mr. Henderson) has depicted? Reflect on the rival pretensions of different states before the adoption of the constitution! Their rivalries and interfering claims were producing animosities which menaced the country with civil discord. And what enmity is more direful? Advert but to the scenes of the revolutionary war, especially in those parts of the country where the inhabitants were most divided in political views, and were arranged against each other under the well known names of the different sides which they espoused? When they were thus divided into hostile parties, was not their animosity far more violent than is known in any contest against a foreign power? When the nearest friends become open enemies, are they not of all deemed the most bitter? So when the people of the same country are rent asunder by the violence of civil dissentions, and are armed to contend against each other, are they not then their worst of enemies? And is there no danger of a condition of things like this? From this evil, it is peculiarly the duty of those entrusted with the government to endeavour to save the people. An impartial tribunal, in which all may confide, is a great constitutional security against such a calamity. This security, my friend from North Carolina (Mr. H.) is zealous to preserve.

We have been told of officers of the revolutionary army who knew how to fight, and could fight again. When gentlemen tell us what they can do, we should not be unwilling to belive that such is their opinion. But would it not be better for the country to maintain the judges of the United States in office, and pay their compensations annually, rather than hazard a decision of this kind? When gentlemen speak in such a manner, do they expect all who are against them to be crushed in an instant? Sir! There are also men who fought in the war of our revolution, who think this bill unconstitutional, men who have given as decisive proofs of their military spirit and talents as any on the other side. Can it be the wish of gentlemen, that these gallant defenders of the country should be arrayed against each other? Say, they have their officers! Have gentlemen also considered, what are their various means for so serious a trial? If they would have us judge, are they prepared to say, what is the amount of their strength?—what is the population of those parts of the country on which they rely—what is the number of the free men, which they might think expedient to be sent from home? What is the whole number fit to bear arms?—what their state of equipment, and discipline?—and what there resources for supporting troops in the field? Are their armies already prepared? Since so much has been said about this very undesirable resort, let me observe, that to the north of the Hudson, there is a single division of militia, respecting which perhaps it is not too much to say, that, if, with a conviction of its being their public duty, and on the call of proper authority, they should be assembled complete in arms, for the defence of their constitutional rights against usurpation, they would not easily be subdued by force which could soon be sent against them, from the south by the present administration. They are commanded by a gentleman who is now a member of this house. But, sir, let me not be understood to say there would be any disposition to rebellion in that section of the country to which I allude in general, although they should believe the present bill if passed, to be an infraction of the constitution of the United States. To say this would not be doing justice to their character. No, Sir! whatever unconstitutional measure may be adopted, whatever powers may be assumed over the constitution, gentlemen may rest assured, with respect to that portion of the country, in any event of the opinions of the inhabitants, that there will not be a rebellion.

In making these remarks, I speak of the tendency of measures. The principle, sir, of an impartial tribunal to decide questions respecting the fundamental rights of the society, and government, is an original of this country. When adopted in the United States, it was a novelty in the history of nations. The experiment thus far has been successful. To have established this principle of constitutional security is the peculiar glory of the American people. It enables the respective parts of the country to assert their constitutional rights, and at the same time secures internal tranquility. If you now destroy it, will not the people of particular states have cause to complain, that they have been deceived in the event, and that their property and liberties are not secured according to their just expectations? When the constitution was adopted, was it not right to expect, that the observance of it would be guarded by the judicial authority, which might hold in check the legislature and the executive, if ever they should unfortunately be disposed to overleap the established barriers? Without this, what is the protection for the feeble states, if any of the large and powerful states should influence Congress and the President to concur in unconstitutional acts, and to raise armies, and draw forth the treasure of the United States, to confirm their usurpations? The union of the states, according to the true principles of the constitution, is highly, very highly, to be prized, as it interests the whole American people. You might talk of this union as a blessing, after the constitutional security, which renders it precious, should be utterly destroyed. But there might then be many, who will feel, that the empty sound, although retained, is such a blessing as but afflicts them with the recollection of their ruined hopes.

IMPORTED

In the Robert from Liverpool, and now opening for Sale at the Subscriber's Store, New Jersey Avenue, Capitol Hill, City of Washington—

A general assortment of Ironmongery, Cutlery, Sadlery and Brass Wares.—Spades and Shovels, Sheet Iron, Tin in Boxes, Brass Kettles, Corn Hoes, Nails, Glue; Sacks, Hinges and Screws, Carpenters planes, Saws, Braces and Bits, Screw drivers, &c. Knives and Forks, Cruet Stands, Iron Wire, Brushes; Smiths Hammers, Files, Vices, Screw plates, &c. Razors, Penknives, Spoons, Japanned [illegible] Trays, Waiters and Bread Baskets,—a few setts of gentlemens tools in chests, and a variety of articles too tedious to particularize. Also, a cask of Kerland's fowling guns, which will be sold very low for cash or approved notes.

June 28, 1802. H. INGLE. [illegible]

STUD COLTS.

SO much injury is sustained by the inhabitants of the City of Washington, in consequence of the owners of Stud Colts having turned them loose in the Commons, that the injured Persons have determined to put the law in force by shooting every stud colt found on the commons after this day.

28th June, 1802.