

Publicola: An Address to the Freemen of North Carolina, *State Gazette of North Carolina*, 20 March 1788

I am astonished to hear that appeals are held up as a bugbear by men of understanding, if indeed they are in earnest. It is well known to every one who has looked into the new constitution, with any degree of attention, that the federal courts can have nothing to do with suits between citizens of the same state, unless where they claim lands under grants of different states. This [is] a power reserved by the confederation, and it is necessary for the purpose of giving each party a fair and impartial trial, before Judges who may be supposed indifferent to both states—The citizen of this state will have the benefit of this regulation, when he claims land in another state, either under a grant of that state, or his own. Appeals will be regulated by your own representatives in Congress, and will undoubtedly be confined to suits where the value contended for, will bear the expence and trouble. This is a sufficient security for us, as a great majority of the states must necessarily be at a considerable distance from the seat of government; and in framing laws the members will be attentive to the interest of their respective constituents. But I find some people are so strangely infatuated, as to think that Congress can, and therefore will, usurp powers not given them by the states, and do any thing, however oppressive and tyrannical. I know no good grounds for such a supposition, but this, that the legislative and judicial powers of the state have too often stepped over the bounds prescribed for them by the constitution; and yet, strange to tell, few of those, whose arguments I am now considering, think such measures censurable—The conclusion to be drawn here is obvious—The objectors hope to enjoy the same latitude of doing evil with impunity, and they are fearful of being restricted, if an efficient government takes place. But in truth many of the arguments used against the new constitution are utterly unaccountable; such for instance, that taxes are to be levied at the point of the bayonet—I would be glad to know the reason for this extraordinary assertion—Who has informed those worthy objectors all over the United States (for they catch at the arguments of each other) that the people would refuse to pay taxes for the support of the union? For to make soldiers necessary in the collection, resistance in the people is pre-supposed. That the people in this state should raise any objections to federal courts, and to appeals, is to me past all comprehension. After complaining for some years past, of the delays in our own courts, and of frequent decisions which have given great offence to the people in general, it would naturally occur that some reform should be thought necessary, and that any scheme that would effect such a salutary purpose, would readily be adopted.⁵ All criminal matters must be tried, and finally determined, in the state where the offence may be committed, even if it should be treason against the United States; and though the federal courts must be confined to some particular cases specified in the new constitution, yet the rules of their conduct will have a powerful influence upon the courts of the state. If business is transacted in the former upon settled and uniform principles, and without unnecessary delays, the latter will be ashamed to neglect their duty. I am informed that our Judges see clearly that this will be one of the consequences of adopting the new constitution, and one of them, fearful of being restricted to do what is right, expressed his apprehensions, that the *great federal courts* would *overshadow* the courts of the state: So unwilling are men possessed of absolute power to relinquish any part of it. For this, and several reasons, altogether as good, our Judges

are decidedly opposed to the new constitution. But I suppose no good citizen will think it any degradation to the state, that our courts should undergo a reform from the example of the courts of the union (of which we are a part) or even from the example of the courts of any other country. The apprehensions of paying taxes for the support of the union, should not influence our conduct in deciding whether we shall receive the new constitution. . . .

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