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No. 25-1276

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JAMES EDWARD WHITE, Plaintiff-Appellant,

- v. -

U.S. SUPREME COURT, ET AL., Defendants-Appellees.

On Appeal from the United States District Court for the Western District of Michigan Southern Division

A JURY TRIAL IS DEMANDED for this COMPLAINT and PETITION

BRIEF OF PLAINTIFF-APPELLANT

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure and Sixth Circuit Rule 26.1, Plaintiff-Appellant certifies that no party to this appeal is a subsidiary or affiliate of a publicly owned corporation and no publicly owned corporation that is not a party to this appeal has a financial interest in the outcome.

Plaintiff-Appellant is an individual.

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STATEMENT IN SUPPORT OF ORAL ARGUMENT

Pursuant to *Federal Rule of Appellate Procedure* and Sixth Circuit Rule 34(a), Plaintiff-Appellant hereby respectfully requests oral argument on the present appeal. This appeal raises important issues relating to the Plaintiff's, or any person's, rights under the Constitution of the United States.

JURISDICTIONAL STATEMENT

The District Court had subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331. This case arises under the *1787 Letter of Transmittal to the President of Congress*[1] and subsequently the states for ratification, and the *Preamble to the United States Constitution* "establish Justice" as well as at least *Art. II, § 1, Cl. 8* "preserve, protect and defend the Constitution," *Art. II, § 3* "recommend to [Congress] … take Care that the Laws be faithfully executed," *Art.*

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[1] *1787 [Proposed Constitution] Letter of Transmittal to the President of Congress* (excerpts)

> The friends of our country have long seen and desired that the power of making war, peace, and treaties, that of levying money, and regulating commerce, and the *correspondent* executive and *judicial authorities*, should be fully and effectually *vested in the General Government of the Union*; but the impropriety of delegating such extensive trust to one body of men is evident: hence results the necessity of a different organization.
>
> It is *obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each*, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest.

III, § 2, Cl. 1 1 "arising under this Constitution … to which the United States shall be a Party," *Art. III, § 2, Cl. 2* "In all Cases…in which a State shall be Party … original Jurisdiction…. [i]n all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact," *Art. IV, § 2, Cl. 1* "entitled to all Privileges and Immunities of Citizens," *Art. IV, § 4* "guarantee…Republican Form of Government," Article VI, Clause 2 "supreme Law of the Land; and the Judges in every State shall be bound thereby," *Art. VI, Cl. 3* "shall be bound by Oath or Affirmation, to support this Constitution," *Preamble to the Bill of Rights*[2] "to prevent misconstruction or abuse of its powers", *Amend. I* "petition the Government for a redress of grievances" *Amend. IV* "secure in their…effects," *Amend. V* "private property be taken," *Amend. VII* "common law…jury trial," *Amend. IX* "enumeration…shall not deny," *Amend. X* "to the people," and *Amend. XIV* "state deprive…without due process." The Plaintiff argues that the State of Michigan, the U.S. Supreme Court, the Congress of the United States, and the Executive branch of the United States have denied Plaintiff

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[2] THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order *to prevent misconstruction or abuse of its powers*, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will *best ensure the beneficent ends of its institution*.

Equal Protection of the Constitution and laws by accepting incorrect arithmetic and invalid logic, and by not reviewing the plain English of laws or constitutions.

The Court of Appeals has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1291. On February 25, 2025, the District Court issued orders and a judgement dismissing with prejudice Plaintiff's Complaint (PageID.1022). Plaintiff's Notice of Appeal was filed on March 24, 2025 (PageID.1023).

STATEMENT OF ISSUES FOR REVIEW

The overriding issue is a continuous string of abuses of power[3] in which the courts, including the District Court, mistake rules for law and grants of powers as opportunities to thwart "Justice" by placing said rules and powers above the "supreme Law of the Land" as designated by *Art. VI, Cl. 2* of the United States Constitution. The District Court's apparent overriding sticking point (i.e., reason for Complaint dismissal) is that all of the United States Government somehow has "sovereign immunity,[4]" ignoring the plain wording of the Constitution and

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[3] *Federalist No. 15*: In addition to all this, there is, in the nature of sovereign power, an impatience of control, that *disposes those who are invested with the exercise of it*, to look with an evil eye upon all external attempts to restrain or direct its operations. From this spirit it happens, that in every political association which is formed upon the principle of uniting in a common interest a number of lesser sovereignties, *there will be found a kind of eccentric tendency in the subordinate or inferior orbs, by the operation of which there will be a perpetual effort in each to fly off from the common centre.* This tendency is not difficult to be accounted for. It has its origin in the love of power. Power controlled or abridged is almost always the rival and enemy of that power by which it is controlled or abridged. This simple proposition will teach us how little reason there is to expect, that the persons intrusted with the administration of the affairs of the particular members of a confederacy will at all times be ready, with perfect good-humor, and an unbiased regard to the public weal, to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of human nature.

[4] *Federalist No. 80*:

> Still less need be said in regard to the third point. *Controversies between the nation and its* members or *citizens*, can only be properly referred to the national tribunals. Any other plan would be contrary to reason, to precedent, and to decorum.

Federalist No. 80, when such is not granted to it by "We the People" but has only been declared as a legal fiction by the Supreme Court of the United States and eagerly accepted by persons (including Justices) "intrusted with the administrations of the affairs" of the Government. Federal "sovereign immunity" now occasions for the United States Government the very problem the Constitution was supposed to solve regarding the original *Articles of Confederation*[5]. Currently not only the States operate independent of the Federal Government and its Constitution, the units of the Federal Government (including the Supreme Court) operate independent of the Constitution. One very specific instance of this is that judiciary rules apparently permit courts to totally bypass Juries in Civil cases which is a clear violation of *Amend. VII* and allows judges and Justices to abuse their power

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The "third point" being "to Controversies to which the United States shall be a Party" (*Art. III, § 2, Cl. 1*; PageID.70)

[5] *Federalist No. 15*:

> In our case, the concurrence of thirteen distinct sovereign wills is requisite, under the Confederation, to the complete execution of every important measure that proceeds from the Union. *It has happened as was to have been foreseen. The measures of the Union have not been executed; the delinquencies of the States have, step by step, matured themselves to an extreme, which has, at length, arrested all the wheels of the national government, and brought them to an awful stand.* Congress at this time scarcely possess the means of keeping up the forms of administration, till the States can have time to agree upon a more substantial substitute for the present shadow of a federal government. Things did not come to this desperate extremity at once.

by misinterpreting (if they even read it) the law. No (honest, high integrity) jury would permit incorrect arithmetic, invalid logic, or completely ignoring what the law in plain English says – all clearly *Amend. IX* violations – and the jury would absolutely not decide a case on a nuance of judicial rules[6] when the Constitution is emphatically the "supreme Law of the Land" (*Art. VI, Cl. 2*).

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[6] Even the rules preach "just[ice]," *Federal Rules of Civil Procedure 1*:

> They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

STATEMENT OF THE CASE

This appeal seeks 1) to restore to everyone in the USA the full right to a Jury trial in Civil cases, 2) the return of Michigan to a "Republican Form of Government" where the courts of the State understand they must adhere to the U.S. Constitution and the constitution and laws of Michigan, 3) recognition that *Amend. IX* is not a hollow nullity which the judiciary can ignore in favor of judicial rules, precedent, or on any other excuse, and 4) recognition that Justice can only be achieved when the courts properly understand that cases can only be decided "fairly" at lower levels in the following hierarchy when fairness and Justice is true from the top all the way down the hierarchy to the decision level:

- Fundamental rights and people, lawyer, and judicial ethics,[7]
- Due process including law as written, clarify ambiguity, and error correction,
- U.S. Constitution. (which references but does not define due process),
- United States Laws,
- Michigan (or relevant State) Constitution,
- (Relevant-) State Laws,
- (Relevant-) State Administrative Rules Authorized by State Law,
- Federal and State Judicial Doctrine applicable to Justice,
- Applicable Precedent,
- Judicial Procedural Rules applied with Justice in mind. (PageID.2)

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[7] Incorporated via *Amend. IX* and others in the Constitution.

STATEMENT OF FACTS

This case is specific to the failures of the Supreme Court, the Congress, and the Executive Branch of the Federal Government (and the people/staff[8] acting on their behalf) to adhere to the Constitution of the United States (PageID.19, 26-32, 224-225). The root of this case is in three interrelated cases, 1) Michigan State University (MSU) making an arithmetic error in a payment (outside the union contract) on layoff (PageID.108-112) for prior earned and fully vested vacation (related case 1-23-cv-01180-JMB-RSK), 2) MSU deliberately misleading the Michigan Unemployment Insurance Agency (UIA) by saying the vacation payment was *for* the layoff (PageID.8-19, 84, 85 [Article 21]; PageID.103-104, 107-113, 130-145, 148-149) rather than MSU attempting to fraudulently bypass the law to reduce MSU's unemployment insurance obligation which the UIA then improperly accepted (PageID.87) and was further supported in spite of an opposite conclusion in a prior similar case (PageID.144, 358-362) by Michigan's ALJ (PageID.99, 103-104) then MCAC/UIAC (PageID.162-163, 167, 179) and Michigan's courts

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[8] Without discovery it is impossible to know who those people are. E.g., did each Justice of the Supreme Court read, study, and understand Supreme Court case 22-387 or did they only look at a clerk prepared summary that perhaps emphasized a misleading precedent, did the staffs of the contacted Congresspeople keep the petitions to Congress from their boss, and did the President's staff likewise keep that petition from the President? (PageID.610-612)

(PageID.218-222, 234-235, 274, 287, 330, 356) in spite of plain English *MCL 421.48(2)* "However..." language (PageID.79, 102-103, et al.), and 3) the MCAC/UIAC choosing to demonstrate its power in ignoring the plain English "Unless..." language of *MCL 421.34(7)* and ignoring *Mich. Admin. Code Rule 792.11432* by misdirection (PageID.77-78, 167, 215-216 [R 792.11432]) then stonewalling (PageID.169-171, 175, 185) until a Superintending Control Complaint was filed against them in the 30th Circuit Court (PageID.177, 179, 182) which then thoroughly botched valid logic in first deciding that an appeal in the arithmetic error case excused denying Superintending Control (PageID.366) then deciding when the error was pointed out (PageID.369-373) that since the specter of Superintending Control got the required MCAC/UIAC response that Costs (PageID.234-235, 376, 405[9]) were not applicable.

The case docketing lists are extensive so only the highest levels of those lists will be referenced here to show the scope of the record.

- Case 1.23-cv-01248-JMB-RSK *James Edward White v United States Supreme Court, et al.* in United States District Court Western District of Michigan Southern Division in PACER at https://ecf.miwd.uscourts.gov/cgi-bin/DktRpt.pl?110155 (Final judgement February 25, 2025)
- Case 1.23-cv-01180-JMB-RSK *White v. Michigan, State of* RSK in United States District Court Western District of Michigan Southern

[9] When page 405 was scanned by the District Clerk its preceding page was missed but can be seen at PageID.234 (ignoring the hand inked modifications).

Division in PACER at https://ecf.miwd.uscourts.gov/cgi-bin/DktRpt.pl?109931 (Final judgement September 12, 2024 but subject to reopening)

- Case 365597 *James Edward White v State of Michigan* in Michigan Court of Appeals https://www.courts.michigan.gov/c/courts/coa/case/365597 (Reconsideration denied 6/20/24)
- Case No. 22-387 *James Edward White v Michigan State University Unemployment Compensation Division* https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-387.html (Rehearing denied Feb 27 2023)
- Case 163562 *In Re James Edward White* in Michigan Supreme Court https://www.courts.michigan.gov/c/courts/coa/case/356364 (Reconsideration denied 07/28/2022
- Case 163548 *James Edward White v Michigan State Univ Unemployment Compenastio* in Michigan Supreme Court https://www.courts.michigan.gov/c/courts/coa/case/356513 (Reconsideration denied 07/28/2022)

Suffice it to say that neither the lawyers nor judges nor Justices have made any effort whatsoever to look at the Constitutional issues on which "Justice" and fairness must be resolved instead inserting rules or their own ideas into lower levels of the hierarchy and ignoring the higher levels in their entirety.

SUMMARY OF ARGUMENT

Laws and constitutions written in English are intended to be understood in plain English (PageID.2, 3, 19, 23-25, 30, 34) and only when there is some ambiguity in their English or there is some conflict between parts or something not anticipated is encountered[10] (e.g., telephone and *Amend. IV*) do judges (and Justices) have the power or right to interpret them, i.e., "say what the law is." Not the least of the plain English misunderstandings of the District court are the plain language of *Art. III, § 2, Cl. 1* "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, … to Controversies to which the United States shall be a Party" (PageID.70) and the plain English of *Amend. I* "to petition the Government for a redress of grievances" (PageID.30-31, 71, 610).

Additionally *Amend. IX* surely protects the rights of both people and governments to correct arithmetic/math (PageID.4, 20, 854, 857) and valid logic (PageID.4, 12, 13, 19-26, 52, 857; 52 at "… little courts").

The Constitution describes the mechanisms for its modification at *Art. V* so it is absolute that judges and Justices (nor Congress nor the President) have any

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[10] Likely there are some other minor reasons but few and far between.

unilateral right to modify the Constitution or deviate without Justice from its plain English understanding.

A jury trial as Plaintiff has demanded would quickly unmask the raw abuse of power grabbed by the District Court in ignoring the plain English of the Constitution (and Michigan laws) and the correct arithmetic, valid logic, and understanding in plain English of laws and constitutions.

STANDARD OF REVIEW

At least *de novo* as no precedent has been found overriding the plain English of the *Commentaries on the Laws of England*, William Blackstone, Esq. 1765 and subsequent editions (PageID.50-53), or the Constitution (at least *Art. III*) and its Letter of Transmittal to the President of Congress (see the Jurisdictional Statement section, particularly footnote 1), or the Amendments to the Constitution (PageID.71-72) and their Bill of Rights Preamble (see the Jurisdictional Statement section, particularly footnote 2). And certainly abuse of power must be reviewed because the Bill of Rights was in its entirety intended to prevent such abuse (see footnote 2) though that prevention doesn't appear to be happening. Also U.S. Constitution *Art. VI, Cl. 2* (PageID.72):

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the *supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*

ARGUMENT

The questions presented in the *Pro Se Appellant's Brief* form supplied by the Sixth Circuit Court of Appeals and Plaintiff's answers follow.

1. Did the District Court incorrectly decide the facts? If so, what facts?

Facts

The District Court did not even look at the facts[11] instead choosing arbitrary application of vague judicial rules[12] and blatant overriding of the plain English words of the Constitution[13]. The Supreme Court, House of Representatives, and Executive Branch clearly being of the United States therefore the United States is indeed "a Party." Also see the Statement of Facts section above.

2. Do you think the District Court applied the wrong law? If so, what law do you want applied?

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[11] "[A]ccrued vacation that was paid out via 'unwritten practice' (Exhibit L page 5)" (PageID.103) and then used by Michigan's UIA (and MCAC/UIAC and courts; PageID.87, 99, 103-104, 162-163, 167, 179, 218-222, 234-235, 274, 287, 330, 356) in clear violation of the Michigan law "[h]owever" sentence of MCL 421.48(2) (PageID.152, 160, 162, 170, 179, etc.) and without regard to the "[u]nless" sentence of MCL 421.34(7) (PageID.77, 179, 215-216, 219-222, 230-31, 234-235, 263-267, 274, etc.) and thus in violation of the Amend. IX right to understanding law in plain English.

[12] *Federal Rules of Civil Procedure Rule 10* and *12(b)* (particularly (1); see also next footnote).

[13] *Art. § 2, Cl. 1* [A]ll Cases, in Law and Equity, arising under this Constitution, … to Controversies to which the United States shall be a Party;

"United States shall be a Party"

The Constitution is quite clear at *Art. III, § 2, Cl. 1*:

> The judicial Power shall extend *to all Cases, in Law and Equity, arising under this Constitution, ... to Controversies to which the United States shall be a Party…*,

and further that *Art. III, § 2, Cl. 2* clearly states:

> In all Cases … in which a *State shall be Party, the supreme Court shall have original Jurisdiction.*

Thus the Supreme Court itself is the originator of the "Controvers[ey]" between Plaintiff and the "United States" in that the Supreme Court, in denying certiorari in a citizen of a State vs that State case, is in absolute violation of its "original Jurisdiction" obligation which is necessary and essential to ensure that States adhere to the "supreme Law of the Land" as *Art. VI, Cl. 2* demands:

> This Constitution, … shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby…

Amend. IX (PageID.71), by rights identified in *Blackstone* and other sources regarding the "rights of Englishmen," also makes clear that correct arithmetic, valid logic, and understanding constitutions and laws in plain English (PageID.2-6, 50-53) are included in that "supreme Law of the Land" and cannot be "den[ied] or disparag[ed]" (or even simply and totally ignored) by a State or the Federal Government. For "original Jurisdiction" purposes simple logic demands that it matters not whether the State is taken before the Supreme Court after exhausting appeals through the (concurrent) State courts or whether the case is taken direct to

the Supreme Court as quickly after the State's Constitutional violation as practical. From a practical and concurrent responsibility standpoint it makes most sense to exhaust State appeals first but that cannot and does not remove the "original Jurisdiction" obligation necessary to the Federal/State rule of law checks and balances structurally built into the Constitution. When the Supreme Court abrogates its "original Jurisdiction" in a citizen of a State vs the State it effectively violates *nemo iudex in sua causa* – no man should be judge in his own case – an *Amend. IX/Blackstone* fundamental right, by permitting the State of Michigan, via its courts, to be the final "judge" in its own case.

Sovereign Immunity

Further, the District Court illogically argues that "a waiver of Defendants sovereign immunity" (PageID.1019-1020) must be identified by Plaintiff without the Court itself providing any argument or authority that the United States Government or any of its parts has "sovereign immunity." If, as Plaintiff maintains, in fact only the Legislative Branch of the Federal Government has federal sovereign immunity and then only in their *Art. I, § 6, Cl. 1* "Speech or Debate" rights and in actual Constitutionally compliant legislation (once absolutely established) thus any need of "waiver" is moot. There has been no Constitutional amendment that Plaintiff is aware of that overrides the Constitution's "Controversies to which the United States shall be a Party" (*Art. III, § 2, Cl. 1*) and

"supreme Law of the Land" (*Art. VI, Cl. 2*) plain English text. Kent's citation of judicial rulings and Beckering's grasp at them (without citing) are specious at best when considered in the light of valid logic and plain English. "Sovereign immunity" is more thoroughly discussed by Plaintiff, *Chemerinsky*, and *Randall*[14] at PageID.828-830, 833-845. Plaintiff also observes that precedent is only to be applied when it is applicable. When the plain English of the law is clear that plain English is to be applied (PageID.50-53); only when there is some ambiguity in the English or there is some conflict between parts of the law or something not anticipated in the words of the law is encountered[15] (e.g., telephone and *Amend. IV*) do judges (and Justices) have the power or right to interpret the words of the law, i.e., "say what the law is."

3. Do you feel that there are any others [sic] reasons why the District Court's judgement was wrong? If so, what are they?

Case Title/Individual Violators

While the District Court does not state it explicitly, it may be that it seeks to insist that specific federal staff members be individually sued for the Supreme

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[14] Chemerinsky and Randall are readily available by World Wide Web internet searches and are 139 pages of clear fact and reasoning.

[15] Likely there are some other minor reasons but few and far between.

Court, Legislature, and Executive branches violations. Unfortunately specific individuals cannot be known without extensive discovery since there is no reason to believe that Plaintiff's petitions ever were passed up above the first staff to read the petitions/suits nor is Plaintiff aware of instructions said first staff may be following. Or it may be that the District Court finds the title of the case doesn't somehow meet the necessary wording established in the *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 US 388 - Supreme Court 1971 though in such circumstances the District Court should provide an appropriate title.

Due Process

This is a civil case in which Plaintiff read the applicable laws (understanding them in plain English) and saw clearly that both the Supreme Court (and other federal government units) and the State of Michigan were ignoring *Blackstone's* exhortation to read the words (PageID.50-52) of law as being necessary for the commencement of due process which is Constitutionally guaranteed by at least "due process" of *Amend. XIV* if not also of *Amend. V* or even "Equal Protection" and "taken…without just compensation" of those same amendments? "However…" of MCL 421.48(2) and "Unless…" of MCL 421.34(7) were clearly

not *de novo* reviewed by either the Michigan nor the U.S. Supreme Court thus no "due process" was ever performed for any of the related cases and filings.[16]

For "the People"

It may be that State of Michigan and Federal employees have mistakenly considered themselves as working for "the Government" rather than "the People"[17] from which sovereignty arises in the USA. "Justice" as called for in the Constitution, cannot be achieved by the courts aligning themselves with the government, no matter how slight the bias, rather than "the People" whom they serve.

Constitution Amendments

At *Art. V* the Constitution describes the mechanisms for the Constitution's modification so it is absolute that judges and Justices (nor Congress nor the President) have no unilateral right to modify the Constitution or deviate without Justice from its plain English understanding. The relevant parts of *Art. III* have

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[16] Note: Text searches of the PACER files in these cases is unlikely to do a thorough search because the clerks scanning Plaintiff's paper filings did not always OCR (with its attendant limitations) the scanned in images. Failure of the Federal courts to permit text PDF filings by *pro se* filers is yet another example where the USA Government makes certain that *unequal* treatment of itself vs *pro se* individuals occurs.

[17] From the *Preamble to the U.S. Constitution* ("We the People") and Constitution of Michigan of 1963 ("We, the people").

already been quoted above and the District Court has provided no sound grounds for disregarding that plain English.

Jury

A civil jury trial per *Amend. VII* (PageID.71) and as supported by Federalist No. 83 (PageID.32; particularly footnote 17), as Plaintiff has demanded (PageID.1), would quickly unmask the raw abuse of power grabbed by the District Court in ignoring the plain English of the Constitution and the *Amend. IX* correct arithmetic, valid logic, and understanding in plain English of laws and constitutions. This is clearly partly a failure of the Fed. R. Civ. P. 12(b) which (unConstitutionally) inadvertently appears to leave (or be interpreted as leaving) acceptance of defendant defense assertions wholly to the discretion of the judge. Abuse of such apparent discretion to not convene a jury clearly wipes out the jury check against corrupt judges even when those judges are only corrupted by their power – particularly when such corruption lets the judge award an undeserved victory to the Government. Indeed, when the plain English of constitution or law is such that to an honest, high integrity judge there is no doubt of the correctness of the defendant's defense to overrule the Plaintiff a judge can clearly expedite Justice by making that decision but they must do it by distinctly pointing out where *Art. III* (or subsequent amendment) or law clearly allows the defendant's defense, not by using a mistaken judicial doctrine.

Abuse of Power

For all of the above reasons it appears to Plaintiff that the District Court has decidedly exercised its power position to simply disregard the law and bypass all required due processes geared toward achieving Justice. Additionally Plaintiff notes that the District Court explicitly claims it only "performed de novo consideration of those portions of the Report and Recommendation to which objections have been made" but the District Court provided no statements of why the objections were not valid or not convincing (PageID.1018) apparently resting on a declared but unfounded "sovereign immunity."[18] Also the District Court makes hay with "Fed. R. Civ. P. 15(a)(2). '[T]he grant or denial of an opportunity to amend is within the discretion of the District Court.' *Foman v. Davis*, 371 U.S. 178, 182 (1962)." Plaintiff has no disagreement with discretion. And, perhaps, if "sovereign immunity" were valid facts and logic rather than mere authority or precedent, the "discretion" would be correct but absent that obvious fiction there needs to be a clear statement of exactly why "Justice" is better served by not permitting the Amended Complaint than by permitting it. Plaintiff, however, still believes the original filed Complaint and its Exhibits (PageID.1-810) were fine as

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[18] See footnote 4.

they were, they were just never considered given the government's interested desire not to be sued, i.e., to win by simple judicial decree without proving its case.

CONCLUSION

The relief requested is 1) clear declarations that correct arithmetic, valid logic, and understanding law and constitutions in plain English are (or are not and why not) rights (though unenumerated) under *Amend. IX*, 2) a clear declaration that Chief Justice Taft's (1925 Judges Bill) promise of full consideration of "original Jurisdiction" in cases in which a State is a Party will be followed in the future, 3) damages for all the energy and emotional turmoil occasioned by over 3000 hours of effort to get the State of Michigan back to a Republican form of Government and the U.S. Supreme Court, Congress, and President in full compliance with the Constitution, and 4) any other relief to which Plaintiff and "the People" are entitled to.

Dated: April 25, 2025

s/ *James E. White*

James E. White
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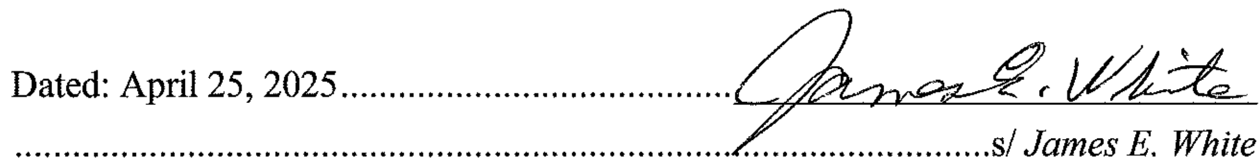
CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), James E. White hereby certifies that this brief complies with the type-volume limitation in Rule 32(a)(7)(B)(i) because, as counted by the Word for Microsoft 365 word count tool, this brief contains 4,532 words, excluding the parts exempted by Rule 32(f) and 6 Cir. R. 32(b)(1). This brief complies with the typeface requirements in Rule 32(a)(5)(A) and the type-style requirements in Rule 32(a)(6) because this brief has been prepared in proportionally spaced 14-point Times New Roman font.

Dated: April 25, 2025



s/ *James E. White*

RULE 30(C[19]) REFERENCES

The accompanying appendix, which is not essential to the appeal, contains non-exhaustive excerpts from the Federalist Papers primarily showing sections with italicized emphasis added where it seems clear to Plaintiff that the Founders were working under the assumption that the Federal Government, as well as State governments, could and should be suable in order for the people to exercise their sovereignty and keep Government actions consistent with the Constitution.

[19] Lower case (c) which is being automatically capitalized by the Heading 2 style.

PROOF OF SERVICE

I, James E. White, certify and declare under penalty of perjury that this *Brief of Plaintiff-Appellant* and its accompanying appendix were served in accordance with Rule 25(a)(2)(A)(ii) by USPS Priority Mail to:

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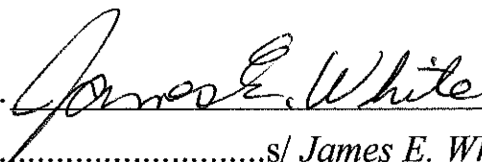

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No. 25-1276

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JAMES EDWARD WHITE, Plaintiff-Appellant,

- v. -

U.S. SUPREME COURT, ET AL., Defendants-Appellees.

On Appeal from the United States District Court for the Western District of Michigan Southern Division

A JURY TRIAL IS DEMANDED for this COMPLAINT and PETITION

APPENDIX TO THE BRIEF OF PLAINTIFF-APPELLANT

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The following pages contain excerpts, with some italicized emphasis, from the Federalist Papers that were written in support of ratification of the Constitution of the United States of America. In general they speak against any belief that "sovereign immunity" was an objective of the Founders. Quite the contrary. The Founders were very aware of a government and its appointed governors that could not be held to account by "the People." Additionally noted is text in favor of Juries that get "the People" directly involved in the government. Something that is widely missing in the current abuse of power by judges and Justices.[1]

Federalist No. 15: The great and radical vice in the construction of the existing Confederation is in the principle of LEGISLATION for STATES or GOVERNMENTS, in their CORPORATE or COLLECTIVE CAPACITIES, and as contradistinguished from the INDIVIDUALS of which they consist. Though this principle does not run through all the powers delegated to the Union, yet it pervades and governs those on which the efficacy of the rest depends. Except as to the rule of appointment, the United States has an indefinite discretion to make requisitions for men and money; but they have no authority to raise either, by regulations extending to the individual citizens of America. *The consequence of this is, that though in theory their resolutions concerning those objects are laws, constitutionally binding on the members of the Union, yet in practice they are mere recommendations which the States observe or disregard at their option.*

It is a singular instance of the capriciousness of the human mind, that after all the admonitions we have had from experience on this head, there should still be found men who object to the new Constitution, for deviating from a principle which has been found the bane of the old, and which is in itself evidently incompatible with the idea of GOVERNMENT; a principle, in short, which, if it is to be executed at

[1] The complete text of the Federalist Papers can be found at https://gutenberg.org/cache/epub/1404/pg1404-images.html among other places.

all, must substitute the violent and sanguinary agency of the sword to the mild influence of the magistracy.

… how little dependence is to be placed on treaties which have no other sanction than the obligations of good faith, and which oppose general considerations of peace and justice to the impulse of any immediate interest or passion.

…we must extend the authority of the Union to the persons of the citizens,—the only proper objects of government.

Government implies the power of making laws. It is essential to the idea of a law, that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. *If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways: by the agency of the courts and ministers of justice, or by military force; by the COERCION of the magistracy, or by the COERCION of arms.* The first kind can evidently apply only to men; the last kind must of necessity, be employed against bodies politic, or communities, or States.

…The rulers of the respective members, whether they have a constitutional right to do it or not, will undertake to judge of the propriety of the measures themselves. They will consider the conformity of the thing proposed or required to their immediate interests or aims; the momentary conveniences or inconveniences that would attend its adoption. All this will be done; and in a spirit of interested and suspicious scrutiny, without that knowledge of national circumstances and reasons of state, which is essential to a right judgment, and with that strong predilection in favor of local objects, which can hardly fail to mislead the decision. The same process must be repeated in every member of which the body is constituted; and the execution of the plans, framed by the councils of the whole, will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part.

Federalist No. 16: …It must stand in need of no intermediate legislations; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. *The majesty of the national authority must be manifested through the medium of the courts of justice.*

But if the execution of the laws of the national government should not require the intervention of the State legislatures, if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of an unconstitutional power. No omissions nor evasions would answer the end. They would be obliged to act, and in such a manner as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a

constitution in any degree competent to its own defense, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the legislature, but the concurrence of the courts of justice and of the body of the people. *If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional, and void.* If the people were not tainted with the spirit of their State representatives, they, as the natural guardians of the Constitution, would throw their weight into the national scale and give it a decided preponderancy in the contest. Attempts of this kind would not often be made with levity or rashness, because they could seldom be made without danger to the authors, unless in cases of a tyrannical exercise of the federal authority.

...It will always be far more easy for the State governments to encroach upon the national authorities than for the national government to encroach upon the State authorities.

Federalist No. 20: *The important truth, which it unequivocally pronounces in the present case, is that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals, as it is a solecism in theory, so in practice it is subversive of the order and ends of civil polity, by substituting VIOLENCE in place of LAW, or the destructive COERCION of the SWORD in place of the mild and salutary COERCION of the MAGISTRACY.*

Federalist No. 21: Where the whole power of the government is in the hands of the people, there is the less pretense for the use of violent remedies in partial or occasional distempers of the State. The natural cure for an ill-administration, in a popular or representative constitution, is a change of men. *A guaranty by the national authority would be as much levelled against the usurpations of rulers as against the ferments and outrages of faction and sedition in the community.*

Federalist No. 22: *In republics, persons elevated from the mass of the community, by the suffrages of their fellow-citizens, to stations of great pre-eminence and power, may find compensations for betraying their trust, which, to any but minds animated and guided by superior virtue, may appear to exceed the proportion of interest they have in the common stock, and to overbalance the obligations of duty.*

A circumstance which crowns the defects of the Confederation remains yet to be mentioned, the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, must be considered as part of the law of the land. Their true import, as far as respects individuals, must, like all other laws, be

ascertained by judicial determinations. *To produce uniformity in these determinations, they ought to be submitted, in the last resort, to one SUPREME TRIBUNAL.* And this tribunal ought to be instituted under the same authority which forms the treaties themselves. These ingredients are both indispensable. *If there is in each State a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts.* There are endless diversities in the opinions of men. We often see not only different courts but the judges of the came court differing from each other. To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, *all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence, and authorized to settle and declare in the last resort a uniform rule of civil justice.*

This is the more necessary where the frame of the government is so compounded that the laws of the whole are in danger of being contravened by the laws of the parts. In this case, if the particular tribunals are invested with a right of ultimate jurisdiction, besides the contradictions to be expected from difference of opinion, there will be much to fear from the bias of local views and prejudices, and from the interference of local regulations. As often as such an interference was to happen, there would be reason to apprehend that the provisions of the particular laws might be preferred to those of the general laws; for nothing is more natural to men in office than to look with peculiar deference towards that authority to which they owe their official existence.

It has not a little contributed to the infirmities of the existing federal system, that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers, and has, in some instances, given birth to the enormous doctrine of a right of legislative repeal. Owing its ratification to the law of a State, it has been contended that the same authority might repeal the law by which it was ratified. However gross a heresy it may be to maintain that a PARTY to a COMPACT has a right to revoke that COMPACT, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. *The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE.* The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.

Federalist No. 23: *...if we are in earnest about giving the Union energy and duration, we must abandon the vain project of legislating upon the States in their*

collective capacities; we must extend the laws of the federal government to the individual citizens of America;...

Federalist No. 27: *The hope of impunity is a strong incitement to sedition; the dread of punishment, a proportionably strong discouragement to it. Will not the government of the Union, which, if possessed of a due degree of power, can call to its aid the collective resources of the whole Confederacy, be more likely to repress the FORMER sentiment and to inspire the LATTER, than that of a single State, which can only command the resources within itself? A turbulent faction in a State may easily suppose itself able to contend with the friends to the government in that State; but it can hardly be so infatuated as to imagine itself a match for the combined efforts of the Union. If this reflection be just, there is less danger of resistance from irregular combinations of individuals to the authority of the Confederacy than to that of a single member.*

I will, in this place, hazard an observation, which will not be the less just because to some it may appear new; which is, that the more the operations of the national authority are intermingled in the ordinary exercise of government, the more the citizens are accustomed to meet with it in the common occurrences of their political life, the more it is familiarized to their sight and to their feelings, the further it enters into those objects which touch the most sensible chords and put in motion the most active springs of the human heart, the greater will be the probability that it will conciliate the respect and attachment of the community. Man is very much a creature of habit. A thing that rarely strikes his senses will generally have but little influence upon his mind. A government continually at a distance and out of sight can hardly be expected to interest the sensations of the people. *The inference is, that the authority of the Union, and the affections of the citizens towards it, will be strengthened, rather than weakened, by its extension to what are called matters of internal concern; and will have less occasion to recur to force, in proportion to the familiarity and comprehensiveness of its agency.* The more it circulates through those channels and currents in which the passions of mankind naturally flow, the less will it require the aid of the violent and perilous expedients of compulsion.

One thing, at all events, must be evident, that a government like the one proposed would bid much fairer to avoid the necessity of using force, than that species of league contend for by most of its opponents; the authority of which should only operate upon the States in their political or collective capacities. It has been shown that in such a Confederacy there can be no sanction for the laws but force; that frequent delinquencies in the members are the natural offspring of the very frame of the government; and that as often as these happen, they can only be redressed, if at all, by war and violence.

The plan reported by the convention, by extending the authority of the federal head to the individual citizens of the several States, will enable the government to employ the ordinary magistracy of each, in the execution of its laws. It is easy to perceive that this will tend to destroy, in the common apprehension, all distinction between the sources from which they might proceed; and will give the federal government the same advantage for securing a due obedience to its authority which is enjoyed by the government of each State, in addition to the influence on public opinion which will result from the important consideration of its having power to call to its assistance and support the resources of the whole Union. *It merits particular attention in this place, that the laws of the Confederacy, as to the ENUMERATED and LEGITIMATE objects of its jurisdiction, will become the SUPREME LAW of the land; to the observance of which all officers, legislative, executive, and judicial, in each State, will be bound by the sanctity of an oath. Thus the legislatures, courts, and magistrates, of the respective members, will be incorporated into the operations of the national government AS FAR AS ITS JUST AND CONSTITUTIONAL AUTHORITY EXTENDS; and will be rendered auxiliary to the enforcement of its laws.*(1) Any man who will pursue, by his own reflections, the consequences of this situation, will perceive that there is good ground to calculate upon a regular and peaceable execution of the laws of the Union, if its powers are administered with a common share of prudence. If we will arbitrarily suppose the contrary, we may deduce any inferences we please from the supposition; for it is certainly possible, by an injudicious exercise of the authorities of the best government that ever was, or ever can be instituted, to provoke and precipitate the people into the wildest excesses. But though the adversaries of the proposed Constitution should presume that the national rulers would be insensible to the motives of public good, or to the obligations of duty, I would still ask them how the interests of ambition, or the views of encroachment, can be promoted by such a conduct?

PUBLIUS

1. The sophistry which has been employed to show that this will tend to the destruction of the State governments, will, in its will, in its proper place, be fully detected.

Federalist No. 28: THAT there may happen cases in which the national government may be necessitated to resort to force, cannot be denied. Our own experience has corroborated the lessons taught by the examples of other nations; that emergencies of this sort will sometimes arise in all societies, however constituted; that seditions and insurrections are, unhappily, maladies as inseparable from the body politic as tumors and eruptions from the natural body; that the idea of governing at all times by the simple force of law (which we have been told is the

only admissible principle of republican government), has no place but in the reveries of those political doctors whose sagacity disdains the admonitions of experimental instruction.

…the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and, after all, only efficacious security for the rights and privileges of the people, which is attainable in civil society. (1) [1. Its full efficacy will be examined hereafter.]

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state. *In a single state, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts of which it consists, having no distinct government in each, can take no regular measures for defense.* The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair. *The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo.* The smaller the extent of the territory, the more difficult will it be for the people to form a regular or systematic plan of opposition, and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements, and the military force in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. In this situation there must be a peculiar coincidence of circumstances to insure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state, provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small, and of course more competent to a struggle with the attempts of the government to establish a tyranny. But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. *Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress.* How wise will it be in them by cherishing the union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system, that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large. The legislatures will have better means of information. They can discover the danger at a distance; and possessing all the organs of civil power, and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty.

Federalist No. 31: *It should not be forgotten that a disposition in the State governments to encroach upon the rights of the Union is quite as probable as a disposition in the Union to encroach upon the rights of the State governments.* What side would be likely to prevail in such a conflict, must depend on the means which the contending parties could employ toward insuring success. As in republics strength is always on the side of the people, and as there are weighty reasons to induce a belief that the State governments will commonly possess most influence over them, the natural conclusion is that such contests will be most apt to end to the disadvantage of the Union; and that there is greater probability of encroachments by the members upon the federal head, than by the federal head upon the members. But it is evident that all conjectures of this kind must be extremely vague and fallible: and that it is by far the safest course to lay them altogether aside, and to confine our attention wholly to the nature and extent of the powers as they are delineated in the Constitution. Every thing beyond this must be left to the prudence and firmness of the people; who, *as they will hold the scales in their own hands, it is to be hoped, will always take care to preserve the constitutional equilibrium between the general and the State governments*. Upon this ground, which is evidently the true one, it will not be difficult to obviate the objections which have been made to an indefinite power of taxation in the United States.

Federalist No. 39: If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. *It is ESSENTIAL to such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it;...*

Federalist No. 78: *There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void.* No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

It can be of no weight to say that the courts, on the pretense of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes; or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure to that of the legislative body. The observation, if it prove any thing, would prove that there ought to be no judges distinct from that body.

Federalist No. 80: *It seems scarcely to admit of controversy, that the judiciary authority of the Union ought to extend to these several descriptions of cases:* 1st, to all those which arise out of the laws of the United States, passed in pursuance of their just and constitutional powers of legislation; *2d, to all those which concern the execution of the provisions expressly contained in the articles of Union; 3d, to all those in which the United States are a party*; 4th, to all those which involve the PEACE of the CONFEDERACY, whether they relate to the intercourse between the United States and foreign nations, or to that between the States themselves; 5th, to all those which originate on the high seas, and are of admiralty or maritime jurisdiction; *and, lastly, to all those in which the State tribunals cannot be supposed to be impartial and unbiased.*

Still less need be said in regard to the third point. Controversies between the nation and its members or citizens, can only be properly referred to the national tribunals. Any other plan would be contrary to reason, to precedent, and to decorum.

The reasonableness of the agency of the national courts in cases in which the State tribunals cannot be supposed to be impartial, speaks for itself. No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias. This principle has no inconsiderable weight in designating the federal courts as the proper tribunals for the determination of controversies between different States and their citizens. And it ought to have the same operation in regard to some cases between citizens of the same State. Claims

to land under grants of different States, founded upon adverse pretensions of boundary, are of this description. The courts of neither of the granting States could be expected to be unbiased. The laws may have even prejudged the question, and tied the courts down to decisions in favor of the grants of the State to which they belonged. And even where this had not been done, it would be natural that the judges, as men, should feel a strong predilection to the claims of their own government.

Having thus laid down and discussed the principles which ought to regulate the constitution of the federal judiciary, we will proceed to test, by these principles, the particular powers of which, according to the plan of the convention, it is to be composed. It is to comprehend "all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands and grants of different States; and between a State or the citizens thereof and foreign states, citizens, and subjects." This constitutes the entire mass of the judicial authority of the Union. Let us now review it in detail. It is, then, to extend:

First. To all cases in law and equity, arising under the Constitution and the laws of the United States. This corresponds with the two first classes of causes, which have been enumerated, as proper for the jurisdiction of the United States. It has been asked, what is meant by "cases arising under the Constitution," in contradiction from those "arising under the laws of the United States"? The difference has been already explained. All the restrictions upon the authority of the State legislatures furnish examples of it. They are not, for instance, to emit paper money; but the interdiction results from the Constitution, and will have no connection with any law of the United States. Should paper money, notwithstanding, be emited, the controversies concerning it would be cases arising under the Constitution and not the laws of the United States, in the ordinary signification of the terms. This may serve as a sample of the whole.

It has also been asked, what need of the word "equity". What equitable causes can grow out of the Constitution and laws of the United States? *There is hardly a subject of litigation between individuals, which may not involve those ingredients of fraud, accident, trust, or hardship, which would render the matter an object of equitable rather than of legal jurisdiction, as the distinction is known and established in several of the States. It is the peculiar province, for instance, of a court of equity to relieve against what are called hard bargains: these are*

contracts in which, though there may have been no direct fraud or deceit, sufficient to invalidate them in a court of law, yet there may have been some undue and unconscionable advantage taken of the necessities or misfortunes of one of the parties, which a court of equity would not tolerate.

Federalist No. 81: In the first place, there is not a syllable in the plan under consideration which directly empowers the national courts to construe the laws according to the spirit of the Constitution, or which gives them any greater latitude in this respect than may be claimed by the courts of every State. I admit, however, that *the Constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the Constitution.* But this doctrine is not deducible from any circumstance peculiar to the plan of the convention, but from the general theory of a limited Constitution; and as far as it is true, is equally applicable to most, if not to all the State governments. There can be no objection, therefore, on this account, to the federal judicature which will not lie against the local judicatures in general, and which will not serve to condemn every constitution that attempts to set bounds to legislative discretion.

It may in the last place be observed that the supposed danger of judiciary encroachments on the legislative authority, which has been upon many occasions reiterated, is in reality a phantom. *Particular misconstructions and contraventions of the will of the legislature may now and then happen; but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system. This may be inferred with certainty, from the general nature of the judicial power, from the objects to which it relates, from the manner in which it is exercised, from its comparative weakness, and from its total incapacity to support its usurpations by force. And the inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption, by degrading them from their stations.* While this ought to remove all apprehensions on the subject, it affords, at the same time, a cogent argument for constituting the Senate a court for the trial of impeachments.

The Supreme Court is to be invested with original jurisdiction, only "in cases affecting ambassadors, other public ministers, and consuls, and those *in which A STATE shall be a party*." Public ministers of every class are the immediate

representatives of their sovereigns. All questions in which they are concerned are so directly connected with the public peace, that, as well for the preservation of this, as out of respect to the sovereignties they represent, it is both expedient and proper that such questions should be submitted in the first instance to the highest judicatory of the nation. Though consuls have not in strictness a diplomatic character, yet as they are the public agents of the nations to which they belong, the same observation is in a great measure applicable to them. *In cases in which a State might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal.*

Federalist No. 83: *THE objection to the plan of the convention, which has met with most success in this State, and perhaps in several of the other States, is that relative to the want of a constitutional provision for the trial by jury in civil cases. The disingenuous form in which this objection is usually stated has been repeatedly adverted to and exposed, but continues to be pursued in all the conversations and writings of the opponents of the plan. The mere silence of the Constitution in regard to civil causes, is represented as an abolition of the trial by jury, and the declamations to which it has afforded a pretext are artfully calculated to induce a persuasion that this pretended abolition is complete and universal, extending not only to every species of civil, but even to criminal causes. To argue with respect to the latter would, however, be as vain and fruitless as to attempt the serious proof of the existence of matter, or to demonstrate any of those propositions which, by their own internal evidence, force conviction, when expressed in language adapted to convey their meaning.*

With regard to civil causes, subtleties almost too contemptible for refutation have been employed to countenance the surmise that a thing which is only not provided for, is entirely abolished. Every man of discernment must at once perceive the wide difference between silence and abolition. But as the inventors of this fallacy have attempted to support it by certain legal maxims of interpretation, which they have perverted from their true meaning, it may not be wholly useless to explore the ground they have taken.

From these observations this conclusion results: that the trial by jury in civil cases would not be abolished; and that the use attempted to be made of the maxims which have been quoted, is contrary to reason and common-sense, and therefore not admissible.

The friends and adversaries of the plan of the convention, if they agree in nothing else, concur at least in the value they set upon the trial by jury; or if there is any difference between them it consists in this: the former regard it as a valuable safeguard to liberty; the latter represent it as the very palladium of free

government. For my own part, the more the operation of the institution has fallen under my observation, the more reason I have discovered for holding it in high estimation; and it would be altogether superfluous to examine to what extent it deserves to be esteemed useful or essential in a representative republic, or how much more merit it may be entitled to, as a defense against the oppressions of an hereditary monarch, than as a barrier to the tyranny of popular magistrates in a popular government. Discussions of this kind would be more curious than beneficial, as all are satisfied of the utility of the institution, and of its friendly aspect to liberty. *But I must acknowledge that I cannot readily discern the inseparable connection between the existence of liberty, and the trial by jury in civil cases. Arbitrary impeachments, arbitrary methods of prosecuting pretended offenses, and arbitrary punishments upon arbitrary convictions, have ever appeared to me to be the great engines of judicial despotism; and these have all relation to criminal proceedings. The trial by jury in criminal cases, aided by the habeas corpus act, seems therefore to be alone concerned in the question. And both of these are provided for, in the most ample manner, in the plan of the convention.*

The excellence of the trial by jury in civil cases appears to depend on circumstances foreign to the preservation of liberty. The strongest argument in its favor is, that it is a security against corruption. As there is always more time and better opportunity to tamper with a standing body of magistrates than with a jury summoned for the occasion, there is room to suppose that a corrupt influence would more easily find its way to the former than to the latter. The force of this consideration is, however, diminished by others. The sheriff, who is the summoner of ordinary juries, and the clerks of courts, who have the nomination of special juries, are themselves standing officers, and, acting individually, may be supposed more accessible to the touch of corruption than the judges, who are a collective body. It is not difficult to see, that it would be in the power of those officers to select jurors who would serve the purpose of the party as well as a corrupted bench. In the next place, it may fairly be supposed, that there would be less difficulty in gaining some of the jurors promiscuously taken from the public mass, than in gaining men who had been chosen by the government for their probity and good character. *But making every deduction for these considerations, the trial by jury must still be a valuable check upon corruption. It greatly multiplies the impediments to its success.* As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant a new trial, and it would be in most cases of little use to practice upon the jury, unless the court could be likewise gained. *Here then is a double security; and it will readily be perceived that this complicated agency tends to*

preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either. The temptations to prostitution which the judges might have to surmount, must certainly be much fewer, while the co-operation of a jury is necessary, than they might be, if they had themselves the exclusive determination of all causes.

Federalist No. 84: *The most considerable of the remaining objections is that the plan of the convention contains no bill of rights. Among other answers given to this, it has been upon different occasions remarked that the constitutions of several of the States are in a similar predicament. I add that New York is of the number. And yet the opposers of the new system, in this State, who profess an unlimited admiration for its constitution, are among the most intemperate partisans of a bill of rights.*

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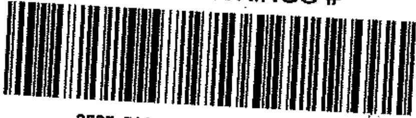

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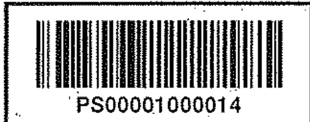

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