

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 under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

Such, then, is the verbal basis of the power of the courts, and particularly of the Supreme Court, to review the legislation of any State, with reference to the Constitution, to acts of Congress, or to treaties of the United States. Nor can there be much doubt that the members of the Convention were also substantially agreed that the Supreme Court was endowed with the further right to pass upon the constitutionality of acts of Congress. The available evidence strictly contemporaneous with the framing and ratification of the Constitution shows us seventeen of the fifty-five members of the Convention asserting the existence of this prerogative in unmistakable terms and only three using language that can be construed to the contrary. More striking than that, however, is the fact that