

judges can be excited against it, that the judgment can be warped, and the mind bent for one moment to the reception of so monstrous a doctrine— And thus introduced by appeals which mislead the mind, it stands a recorded precedent for capricious power, or inflaming prejudice, to wield on any future occasion, to strike down the liberties of the citizen or despoil him of his property. If there was any one feature in the tyranny of England towards these states when colonies, more odious than another, it was exhibited in the arbitrary assumption of rights claimed under contracts with the government, by acts of Parliament usurping the powers of courts of justice: and History tells us that it was one of those arbitrary exercises of authority aimed at such rights, claimed by the city of Boston and the state of Massachusetts, which set all America in a flame, and burst the bonds of our slavery.

It would not therefore have required any constitutional provision to make manifest the danger and utter inadmissibility of such a doctrine under our free government. But our constitution and Bill of Rights, from abundant caution have forever closed the barriers against it. The denial of the power asserted by the Resolutions of the Report of the majority has been embalmed in our Bill of Rights, as one of the cardinal principles of our constitutional liberty: and our highest Judicial tribunal of this State, has by its decision, placed that principle on high, as one which no mere legislative Act can violate, and which can only be reached by the amending power of the constitution. The sixth Article of our Bill of Rights, which has been affirmed by that court to be a part of our constitution, expressly enacts, “*that the Legislative, Executive, and Judicial powers ought to be forever separate and distinct from each other*”: and it has been by that court decided in conformity to that enactment, that any exercise of power, *which is in its nature judicial*, by the Legislature, whether in the form of Law or Resolution, is repugnant to the constitution, and therefore void. It requires no argument to show that the resolutions proposed involve the exercise of *judicial* power; for if to sit in judgment upon a contract conceded to have been made, certainly partially, if not wholly executed, to declare it void, and to direct its violation by the re-seizure of the rights which the contract professed to give, be not the exercise of *judicial* power, it would be difficult indeed to imagine a case in which such power could exist—with equal propriety might it be said that if the Legislature were to vacate a citizen's Patent for lands from the State, and take away his lands from him, it would not be an exercise of *judicial* power; as it is merely declaring void a contract by the State, and taking away that which the *patent*, as the contract, professed to give.

If therefore, the undersigned had concurred in all the reasoning of that Report, and had entertained the most thorough conviction that the contracts in question were invalid; they could not have yielded their assent to Resolutions which, in their judgment, involve a violation of that constitution they have sworn to support. And they cannot refrain from expressing their surprise, that whilst that Report, professing the most unbounded respect for the legal attainments and purity of purpose of the high and venerable officer of the State, through whose agency, in part, these contracts were made, so deeply laments that he had overstepped the bounds of the law, it should itself have had for its sole aim and end, so obvious an usurpation of the powers of the judiciary department of our government—Reproof thus coming loses all its value.