Excerpts from the (infamous ?) case of ***Cohens v Virginia 19 US 264***

While weighing arguments drawn from the nature of government and from the general spirit of an instrument, and urged for the purpose of narrowing the construction which the words of that instrument seem to require, it is proper to place in the opposite scale those principles, drawn from the same sources, which go to sustain the words in their full operation and natural import. One of these, which has been pressed with ***great force*** by the counsel for the plaintiffs in error, is that ***the judicial power of every well constituted government must be coextensive with the legislative, and must be capable of deciding every judicial question which grows out of the Constitution and laws***.

 (***Exactly*** my argument and consistent with the ***original intent*** of the Framers of the Constitution !! Where did we “waive” this right ?)

 ***If any proposition may be considered as a political axiom, this, we think, may be so considered***. In reasoning upon it as an abstract question, there would, probably, exist ***no*** contrariety of opinion respecting it. Every argument proving the necessity of the department proves also the propriety of giving this extent to it. We do not mean to say that the jurisdiction of the Courts of the Union should be construed to be coextensive with the legislative merely because it is fit that it should be so; but we mean to say that this fitness furnishes an argument in construing the Constitution ***which ought never to be overlooked***, and which is most especially entitled to consideration when we are inquiring whether the words of the instrument which purport to establish this principle shall be contracted for the purpose of destroying it.

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 It has been generally held that the State courts have a ***concurrent jurisdiction with the federal Courts***, in cases to which the judicial power is extended, unless the jurisdiction of the federal Courts be rendered exclusive by the words of the third article. If the words, "to all cases," give exclusive jurisdiction in cases affecting foreign ministers, they may also give exclusive jurisdiction, if such be the will of Congress (NO, NO, NO -- discussion for another day !), in cases arising under the Constitution, laws, and treaties of the United States.

***Winner, winner, chicken dinner !***

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“The case of a State which pays off its own debts with paper money no more resembles this than do those to which we have already adverted. The Courts have no jurisdiction over the contract. They cannot enforce it, nor judge of its violation. ***Let it be that the act discharging the debt is a mere nullity, and that it is still due***. But suppose a State to institute proceedings against an individual which depended upon the validity of an act emitting bills of credit; ***suppose a State to prosecute one of its citizens for refusing paper money***, who should plead the Constitution in bar of such prosecution. If his plea should be overruled, and judgment rendered against him, his case would resemble this; and, unless the jurisdiction of this Court might be exercised over it, the ***Constitution would be violated***, ***and the injured party be unable to bring his case before that tribunal to which the people of the United States have assigned all such cases***.

(***EXACTLY*** where we are today !)

***And much more about this quote later !***

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“The Constitution gave to every person having a claim upon a State a ***right*** to submit his case to the court of the nation. However unimportant his claim might be, however little the community might be interested in it’s decision, the ***framers*** of our Constitution thought it necessary, ***for the purposes of justice***, to create a tribunal as superior to influence as possible in which that claim might be decided.”

 THE best quote of all time from the Court !

 ***And just where did we “waive” THIS Right ????***

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***It is most true that this Court will not take jurisdiction if it should not***; but it is equally true that it ***must*** take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, ***we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution***. Questions may occur which we would gladly avoid, but we cannot avoid them. All we ca n do is to exercise our best judgment and conscientiously to perform our duty. In doing this on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the Constitution and laws of the United States. ***We find no exception to this grant, and we cannot insert one*** (at least until the case of ***Ex Parte McCardle 7 Wall. 506***, a story for another day – Google or Wikipedia is a good ***start*** here).

 ***TREASON !!***