

**United States Vs. Hudson**

**United States Vs. Hudson**

**SooperKanoon Citation :** [sooperkanoon.com/78527](http://sooperkanoon.com/78527)

**Court :** US Supreme Court

**Decided On :** 1812

**Appeal No. :** 11 U.S. 32

**Appellant :** United States

**Respondent :** Hudson

**Judgement :**

United States v. Hudson - 11 U.S. 32 (1812)

U.S. Supreme Court United States v. Hudson, 11 U.S. 7 Cranch 32 32 (1812)

**United States v. Hudson**

**11 U.S. (7 Cranch) 32**

*ON CERTIFICATE OF DIVISION OF OPINION AMONG THE JUDGES*

*OF THE CIRCUIT COURT FOR THE DISTRICT OF CONNECTICUT*

## **SYLLABUS**

The courts of the United States have no common law jurisdiction in cases of libel against the government of the United States.

But they have the power to fine for contempts, to imprison for contumacy, and to enforce the observance of their orders.

Certain implied powers must necessarily result to our courts of justice from the nature of their institution. But jurisdiction of crimes against the state are not among those powers.

To fine for contempt, imprison for contumacy, enforce the observance of orders, &c., are powers which cannot be dispensed with in a court, because they are necessary to the exercise of all others.

This was a case certified from the Circuit Court for the District of Connecticut in which, upon argument of a general demurrer to an indictment for a libel on the President and Congress of the United States, contained in the Connecticut Curreant, of the 7th of May, 1806, charging them with having in secret voted two millions of dollars as a present to Bonaparte for leave to make a treaty with Spain, the judges of that court were divided in opinion upon the question, whether the circuit court of the United States had a common law jurisdiction in cases of libel.

The Court having taken time to consider, the following opinion was delivered (on the last day of the term, all the judges being present) by JOHNSON, J.

The only question which this case presents is whether the circuit courts of the United States can exercise a common law jurisdiction in criminal cases. We state it thus broadly because a decision on a case of libel will apply to every case in which jurisdiction is not vested in those courts by statute.

Although this question is brought up now for the first time to be decided by this Court, we consider it as having been long since settled in public opinion. In no other case for many years has this jurisdiction been asserted, and the general acquiescence of legal men shows the prevalence of opinion in favor of the negative of the proposition.

The course of reasoning which leads to this conclusion is simple, obvious, and admits of but little illustration. The powers of the general government are made up of concessions from the several states -- whatever is not expressly given to the former, the latter expressly reserve. The judicial power of the United States is a constituent part of those concessions -- that power is to be exercised by courts organized for the purpose, and brought into existence by an effort of the legislative power of the Union. Of all the courts which the United States may, under their general powers, constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution and of which the legislative power cannot deprive it. All other courts created by the general government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the general government will authorize them to confer.

It is not necessary to inquire whether the general government, in any and what extent, possesses the power of conferring on its courts a jurisdiction in cases similar to the present; it is enough that such jurisdiction has not been conferred by any legislative act if it does not result to those courts as a consequence of their creation.

And such is the opinion of the majority of this Court. For the power which Congress possess to create courts of inferior jurisdiction necessarily implies the power to limit the jurisdiction of those courts to particular objects, and when a court is created and its operations confined to certain specific objects, with what propriety can it assume to itself a jurisdiction -- much more extended -- in its nature very indefinite -- applicable to a great variety of subjects -- varying in every state in the Union -- and with regard to which there exists no definite criterion of distribution between the district and circuit courts of the same district?

The only ground on which it has ever been contended that this jurisdiction could be maintained is that, upon the formation of any political body, an implied power to preserve its own existence and promote the end and object of its creation necessarily results to it. But

without examining how far this consideration is applicable to the peculiar character of our Constitution, it may be remarked that it is a principle by no means peculiar to the common law. It is coeval, probably, with the first formation of a limited government, belongs to a system of universal law, and may as well support the assumption of many other powers as those more peculiarly acknowledged by the common law of England.

But if admitted as applicable to the state of things in this country, the consequence would not result from it which is here contended for. If it may communicate certain implied powers to the general government, it would not follow that the courts of that government are vested with jurisdiction over any particular act done by an individual in supposed violation of the peace and dignity of the sovereign power. The legislative authority of the Union must first make an act a crime, affix a punishment to it, and declare the court that shall have jurisdiction of the offense.

Certain implied powers must necessarily result to our courts of justice from the nature of their institution. But jurisdiction of crimes against the state is not among those powers. To fine for contempt -- imprison for contumacy -- enforce the observance of order, &c., are powers which cannot be dispensed with in a court, because they are necessary to the exercise of all others, and so far our courts no doubt possess powers not immediately derived from statute; but all exercise of criminal jurisdiction in common law cases we are of opinion is not within their implied powers.