

BOUVIER'S LAW DICTIONARY

UNITED STATES OF AMERICA - excerpts from definition thereof:

Comments are in [brackets and bold].

Page 3371 - Within these granted powers the sovereignty of the United States is supreme. The constitution, and the laws made in pursuance of it, and all treaties, are the supreme law of the land. Art. 6. And they not only govern in their words, but in their meaning. **[the context changes to the private individuals here]** If the sense is ambiguous or doubtful, the United States **[private individuals]**, through their courts, **[one supreme Court of each private individual]** in all cases where the rights of an individual are concerned, are the rightful expositors. For without the authority of explaining this meaning, the United States **[private individuals]** would not be sovereign.

In these matters, particularly in the limitation put on the sovereignty of the states, it has been sometimes said that the constitution executes itself. This expression may be allowed; but with as much propriety these may be said to be laws which the people have enacted themselves, and no laws of congress can either take from, add to, or confirm them. They are rights, privileges or immunities which are granted by the people, and are beyond the power of congress or state legislatures; and they require no law to give them force or efficiency. The members of congress are exempted from arrest, except for treason, felony, and breach of the peace, in going to and returning from the seat of government. Art. 1 § 6. It is obvious that no law can affect this immunity. On these subjects all laws are purely nugatory, because if they go beyond or fall short of provisions of the constitution, that may always be appealed to. **[changes to private individuals right here]** An **[private]** individual has just what **[page 3372]** that gives him - no less and no more. It may be laid down as a universal rule, admitting of no exception, that when the constitution has established a disability or immunity, a privilege or a right, these are precisely as that instrument has fixed them, and can be *neither augmented nor curtailed* by any act or law either of congress or a state legislature.

It has very truly said that out of the mass of sovereignty intrusted to the states was carved a part and deposited with the United States. But this was taken by the people **[United States, in the previous sentence]**, and not by the states as organized communities. The people are the fountain of sovereignty. The whole was originally with them as their own. The state governments were but trustees acting under a derived authority, and had no power to delegate what was delegated to them. But the people, as the original fountain, might take away what they had lent and intrust it to whom they pleased. They had the whole title, and, as absolute proprietors, had the right of using or abusing.

The constitution and laws made in pursuance of it, - that is, laws made within their granted powers, - and all treaties, are the supreme law of the land, art. 6; and the judicial power, art 3, § 1, gives to the supreme court **[one supreme Court of the private individuals]** the right of interpreting them. But this court is but another name for the United States **[private individuals]**, and this power necessarily results from their sovereignty; for the United States **[private individuals]** would not be truly

sovereign unless their interpretation as well as the letter of the law governed. But this power of the court [**one supreme Court**] is confined to cases brought before them, and does not embrace principles independent of these cases. They have no power analogous to that of the Roman praetor of declaring the meaning of the constitution by edicts. Any opinion, however strongly expressed, has no authority beyond the reasoning by which it is supported, and binds no one. But the point embraced in the case is as much a part of the law as though embraced in the letter of the law or constitution, and it bind public functionaries, whether of the states or United States, as well as private persons; and this of necessity, as there is no authority above a sovereign to which an appeal can be made.

Page 3373 – We have seen that the constitution and the laws and treaties made in pursuance of it are the supreme law of the land, and that of the true meaning of these the supreme court [**one supreme court of the private individuals**] is the rightful expositor. This necessarily results from their sovereignty. But the United States government is one of delegated powers; and nothing is better established, both by technical reasoning and common sense, than this, - that a delegate can exercise only that power which is delegated to him. All acts beyond are simply void, and create no obligation. It is a maxim also of constitutional law that the powers of sovereignty not delegated to the United States are reserved to the states. But in so complex an affair as that of government, controversies will arise as to what is given and what is reserved, - doubts as to the dividing line. When this is the case, who is to decide? This is a difficulty which the convention did not undertake to settle.

Page 3374 – We have seen that, within their limited powers, the United States [**private individuals**] are the natural expositors of the constitution and laws; that when a case affecting individual rights arises, the supreme court [**one supreme Court**] stands for the United States [**private individuals**], and that they have the sole right to explain and enforce the laws and constitution. But their power [**private people**] is confined to the facts before them, and they have no power to explain them in the form of an edict to effect other rights and cases. Beyond these powers the states are sovereign, and their acts are equally unexaminable. Of the separating line between the powers granted and the powers withheld, the constitution provides no common judge, but an arbiter mutually agreed upon. [**United States Supreme Court, sitting in Washington, D.C.**] If that power is given to one party, that may draw all power to itself, and it establishes a relation not of equal sovereignties, but of sovereign and subject. On this the constitution is silent. The great men who formed it did not undertake to solve a question that in its own nature could not be solved. Between equals it made neither superior, but trusted to the mutual forbearance of both parties. A larger confidence was placed in an enlightened public opinion as the final umpire; and not until the war of the rebellion was this conflict by the *ultima ratio regum*. The status of the states and their political rights under the constitution have been considered at large by the supreme court in the case of Texas v. White, 7 Wall. (U.S.) 700, 19 L.Ed. 227.