

## Sec. 2—Judicial Power and Jurisdiction      Cl. 2—Original and Appellate Jurisdiction

enumerated cases and controversies in Article III. The case and the principle have been cited and reaffirmed numerous times,<sup>1197</sup> including in a case under the Voting Rights Act of 1965.<sup>1198</sup>

***Congressional Control Over Writs and Processes.***—The Judiciary Act of 1789 contained numerous provisions relating to the times and places for holding court, even of the Supreme Court, to times of adjournment, appointment of officers, issuance of writs, citations for contempt, and many other matters which it might be supposed courts had some authority of their own to regulate.<sup>1199</sup> The power to enjoin governmental and private action has frequently been curbed by Congress, especially as the action has involved the power of taxation at either the federal or state level.<sup>1200</sup> Though the courts have variously interpreted these restrictions,<sup>1201</sup> they have not denied the power to impose them.

Reacting to judicial abuse of injunctions in labor disputes,<sup>1202</sup> Congress in 1932 enacted the Norris-La Guardia Act which forbade the issuance of injunctions in labor disputes except through compliance with a lengthy hearing and fact-finding process which required the district judge to determine that only through the injunctive process could irremediable harm through illegal conduct be

<sup>1197</sup> *E.g.*, *Kline v. Burke Constr. Co.*, 260 U.S. 226, 233–234 (1922); *Ladew v. Tennessee Copper Co.*, 218 U.S. 357, 358 (1910); *Venner v. Great Northern R. Co.*, 209 U.S. 24, 35 (1908); *Kentucky v. Powers*, 201 U.S. 1, 24 (1906); *Stevenson v. Fain*, 195 U.S. 165, 167 (1904); *Plaquemines Tropical Fruit Co. v. Henderson*, 170 U.S. 511, 513–521 (1898); *The Mayor v. Cooper*, 73 U.S. (6 Wall.) 247, 251–252 (1868).

<sup>1198</sup> By the Voting Rights Act of 1965, Congress required covered states that wished to be relieved of coverage to bring actions to this effect in the District Court of the District of Columbia. In *South Carolina v. Katzenbach*, 383 U.S. 301, 331 (1966), Chief Justice Warren for the Court said: “Despite South Carolina’s argument to the contrary, Congress might appropriately limit litigation under this provision to a single court in the District of Columbia, pursuant to its constitutional power under Art. III, § 1, to ‘ordain and establish’ inferior federal tribunals.” See also *Palmore v. United States*, 411 U.S. 389, 400–02 (1973); *Swain v. Pressley*, 430 U.S. 372 (1977); *Taylor v. St. Vincent’s Hosp.*, 369 F. Supp. 948 (D. Mont. 1973), *aff’d*, 523 F.2d 75 (9th Cir.), *cert. denied*, 424 U.S. 948 (1976).

<sup>1199</sup> 1 Stat. 73. For a comprehensive discussion with itemization, see Frankfurter & Landis, *Power of Congress over Procedure in Criminal Contempts in ‘Inferior’ Federal Courts: A Study in Separation of Powers*, 37 HARV. L. REV. 1010 (1924).

<sup>1200</sup> The Act of March 2, 1867, 10, 14 Stat. 475, as amended, now 26 U.S.C. § 7421 (federal taxes); Act of August 21, 1937, 50 Stat. 738, 28 U.S.C. § 1341 (state taxes). See also Act of May 14, 1934, 48 Stat. 775, 28 U.S.C. § 1342 (state rate-making).

<sup>1201</sup> Compare *Snyder v. Marks*, 109 U.S. 189 (1883), with *Dodge v. Brady*, 240 U.S. 122 (1916), with *Allen v. Regents*, 304 U.S. 439 (1938).

<sup>1202</sup> F. FRANKFURTER & I. GREENE, *THE LABOR INJUNCTION* (1930).