sides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal courts, to every subject, in every form, which the constitution might warrant."[1190] Applying § 11, the Court held that the circuit court had lacked jurisdiction.

Chief Justice Marshall himself soon made similar assertions,[1191] and the early decisions of the Court continued to be sprinkled with assumptions that the power of Congress to create inferior federal courts necessarily implied "the power to limit jurisdiction of those Courts to particular objects."[1192] In *Cary v. Curtis*,[1193] a statute making final the decision of the Secretary of the Treasury in certain tax disputes was challenged as an unconstitutional deprivation of the judicial power of the courts. The Court decided otherwise. "[T]he judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances applicable exclusively to this court), dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good."[1194] Five years later, the validity of the assignee clause of the Judiciary Act of 1789[1195] was placed in issue in *Sheldon v. Sill*,[1196] in which diversity of citizenship had been created by assignment of a negotiable instrument. It was argued that, because the right of a citizen of any state to sue citizens of another flowed directly from Article III, Congress could not restrict that right. Unanimously, the Court rejected this contention and held that because the Constitution did not create inferior federal courts but rather authorized Congress to create them, Congress was also empowered to define their jurisdiction and to withhold jurisdiction of any of the

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[1190] 4 U.S. at 10.

[1191] In *Ex parte* Bollman, 8 U.S. (4 Cr.) 75, 93 (1807), Marshall observed that "courts which are created by written law, and whose jurisdiction is defined by written law, cannot transcend that jurisdiction."

[1192] United States v. Hudson & Goodwin, 11 U.S. (7 Cr.) 32, 33 (1812). Justice Johnson continued: "All other Courts [besides the Supreme Court] 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." *See also* Rhode Island v. Massachusetts, 37 U.S. (12 Pet.) 657, 721–722 (1838).

[1193] 44 U.S. (3 How.) 236 (1845).

[1194] 44 U.S. at 244–45. Justices McLean and Story dissented, arguing that the right to construe the law in all matters of controversy is of the essence of judicial power. Id. at 264.

[1195] Supra.

[1196] 49 U.S. (8 How.) 441 (1850).