

**Volume 11**

**Number 025**

**Mr. Justice Joseph Story and Federal  
Authority**

**Lead: One of the important issues left for future resolution by those who crafted the U.S. Constitution in 1787 was the balance of power within the federal scheme. Mr. Justice Joseph Story helped clear up that issue.**

**Intro.: *A Moment in Time* with Dan Roberts.**

**Content: Joseph Story was perhaps the most brilliant legal mind of his generation. He grew up in Massachusetts, studied at Harvard, read for the law, and worked his way up the ladder of Commonwealth**

**politics while gaining the reputation as a Jeffersonian Republican. Some of his political colleagues, Jefferson included, suspected that Story was really a closeted federalist, whose sentiments, once released on the federal level, would resolve the hanging question of sovereignty against the states. It turned out they were correct.**

**He joined Chief Justice John Marshall on the U.S. Supreme Court in 1812 and quickly emerged as the Chief's most enthusiastic acolyte. Story served on the Court until 1845 all the while maintaining his teaching post at Harvard and a prodigious output of scholarly legal writing. He became an aggressive advocate of**

**Federal power. This was nowhere better illustrated than in the 1816 case, *Martin v. Hunter's Lessee*.**

**A loyalist, Lord Fairfax, before leaving for Britain during the Revolution, gave a portion of his huge royal land grant to a relative, Denny Martin Fairfax, a British subject. After the Revolution, Virginia confiscated the lands of the Tories and gave the Fairfax land to David Hunter, a patriot. Fairfax sued based on U.S. treaty obligations. Justice Story ruled for Fairfax and against Virginia, saying that the people had established the United States not the states, and that federal power was supreme over all competing authority in the land and that included even the**

**sovereign states.**

**At the University of Richmond,  
this is Dan Roberts.**

## Resources

**Dunne, Gerald T.** *Justice Joseph Story and the Rise of the Supreme Court.* New York, NY: Simon and Schuster, 1970.

**Friedman, Leon and Fred L. Israel, ed.** *The Justices of the United States Supreme Court (1789-1969): Their Lives and Major Opinions, Volume 1.* New York, NY: Chelsea House, 1969-1980.

**Newmeyer, R. Kent.** *Supreme Court Justice Joseph Story: Statesman of the Old Republic.* Chapel Hill, NC: North Carolina University Press, 1985.

**McClellan, James.** *Joseph Story and the American Constitution: A Study in Legal and Political Thought with Selected Writings.* Norman, OK: University of Oklahoma Press, 1971.

*Oxford Companion to the Supreme Court of the United States*, K.L. Hall, ed. New York, NY: Oxford University Press, 1992.

**Story, Joseph.** *Commentaries on the Constitution of the United States, Volumes, I, II, III.* New York, NY: Da Capo Press, 1970.

<http://www.michaelariens.com/conlaw/cases/martin/htm>

<http://www.oyez.org/oyez/resource/case/225>

**Copyright by Dan Roberts Enterprises, Inc.**