



State of New York,  
Treasurer's Office,

Albany, May 9 1894

Hon Albion W. Tourgee  
Mayo, N.C.

Dear Sir,

I have your esteemed favor  
before, for which please accept  
my sincere thanks.

"Query" the efficacy of a "specific"  
Civil Rights "proposition", I beg permission  
to observe, that the Constitution  
it now stands, leaves the matter of  
civil rights unnoticed, and gives the  
courts unlimited power to punish  
or not, as they see fit, offences of  
this nature. This is, in my opinion,  
a dangerous condition. It seems to me  
to confer upon judges a legislative,



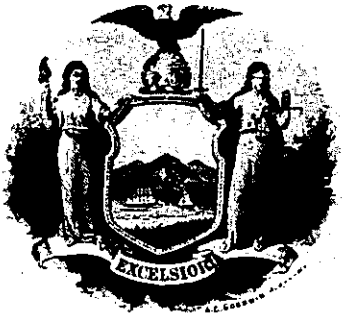
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as well as a judicial function. For surely the power to construe the law, when the intendment of the law admits of a reasonable (?) doubt, is quite equal to the power of making its issues, decrees have been uncertain, contradictory, and in many cases diametrically opposed to each other — but of equal authority. As an example, in the case of Fortune v. S. Trannor, where Editor Fortune was refused a glass of beer, and was beaten and ejected from the premises, Judge Truax in his charge to the jury affirmed that Trannor had a perfect right to refuse him, (for reasons best known to himself) and to order him from the premises.



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On refusal, he had a right to employ force to eject him. The question for the jury to decide, was whether or not undue force was employed in ejecting him from premises. Now, my aim is to have some particular theories of the law incorporated in the Constitution, that cannot, and will not, be disregarded. I have an idea that a law in the Constitution will do more to define the spirit of the law, be a better check upon judges, and a safer guard against misconstruction than volumes of decisions, and whole libraries of reports, which may be set aside by a judge at any time. This is merely an opinion,

Yours truly,

Wm. C. Cady