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## Above the Law

Lucian Minor

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### ABOVE THE LAW.

It is said, that neither the government of the United States, nor that of any of the several states composing our Union, except Virginia, has provided any judicial proceeding by which its debts to a citizen may be recovered. Except in Virginia, whoever has a claim against the government, must petition Congress, or the state Legislature, and get a special act passed for his satisfaction.

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In Virginia, the Auditor of Public Accounts is invested with judicial powers, to determine the validity of most claims against the Commonwealth; subject to an appeal to the courts.

Even in Great Britain, a subject may get justice from the King, by a prescribed process—a *monstrans de droit*, or *Petition of Right*. Is it not singular, that a monarchy, and a state which many worthy people deem the most aristocratic in this confederacy, should have been more tender of the rights of the citizen than those which wear the most popular forms?

Where claimants are referred to a regular tribunal, which adjusts their rights according to settled principles,—justice may, in general, be expected by both parties. Those claims and those only, are allowed, which the proofs warrant.—But where an application to the legislature is necessary, so unsuitable is that body for judicial investigations,—so much is it influenced by whim, party spirit, favoritism, or prejudice of some kind or other,—so much is its action alternately retarded and hurried by numberless contingencies,—so apt is an unimportant measure, after being overlaid by the mass of business for months or years, to be at last precipitated through its several stages, but half examined and not half understood,—that it is at least an *even chance*, that either the claimant or the public is wronged. In one point of view, indeed, they are both sure to be wronged. The harassing delays, and the expenses he has incurred, always make the claimant pay dear for his success; and to the public in many cases, the investigation costs a larger sum than that awarded. Nothing can demonstrate more clearly, what Burke calls the "*ill husbandry of injustice*."

Let Congress—let State Legislatures—provide a regular tribunal and procedure for determining such demands; and they will avoid at once the loss and the reproach: they will save just claimants from the delay, the torturing suspense, and sometimes the utter injustice, which now await them: and they will cut off unjust ones from much of their present likelihood of success in schemes of fraud.

L.