

**THE LEGAL TENDER CASES  
OF 1871: DECISION  
OF THE SUPREME COURT  
OF THE UNITED STATES**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649464029

The Legal Tender Cases of 1871: Decision of the Supreme Court of the United States by Various

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**VARIOUS**

**THE LEGAL TENDER CASES  
OF 1871: DECISION  
OF THE SUPREME COURT  
OF THE UNITED STATES**



THE  
LEGAL TENDER CASES  
OF 1871.

---

DECISION OF THE SUPREME COURT OF THE UNITED STATES, DECEMBER TERM, 1870,  
IN THE CASES OF KNOX *vs.* LEE, AND PARKER *vs.* DAVIS;

WITH THE OPINIONS OF

JUSTICES STRONG AND BRADLEY; AND THE DISSENTING OPINIONS OF JUSTICES  
CHASE, CLIFFORD, AND FIELD.

TO WHICH ARE ADDED

THE NOTES OF FORTY-FOUR CASES QUOTED OR REFERRED TO IN THE SEVERAL  
OPINIONS ABOVE NAMED.

---

New York, 1872:

PUBLISHED AT THE  
OFFICE OF THE BANKERS' MAGAZINE AND STATISTICAL REGISTER.

*Price, Two Dollars.*

Entered according to Act of Congress, in the year 1872,

By I. SMITH HOMANS, JR.,

IN THE OFFICE OF THE LIBRARIAN OF CONGRESS AT WASHINGTON.

## STANDARD COMMERCIAL AND FINANCIAL WORKS.

EDITED BY I. SMITH HOMANS.

### *I. The Cyclopedia of Commerce and Commercial Navigation...\$10 00.*

The history and statistics of the staples of trade and commerce; with two thousand articles on manufactures, etc., maps and charts.

### *II. A Law Manual for Bankers and Notaries...\$6 00.*

Including a summary of the law and principles of commercial paper; the law of indorsement, negotiability, demand and protest, and the history of Bills of Exchange; with recent decisions of the United States Supreme Court and of the Courts of the several States in reference to Bills and Notes. To which is added a summary of the law of each State as to the rate of interest and to damages on Protested Bills of Exchange, with the latest forms of Protest and Notices of Protest.

### *III. The National Currency Act...\$2 00.*

Or the National Bank Act of June, 1864, with the Amendments of 1865-1870, to which are added the decisions of the Supreme Court of the United States and of the State Courts, and decisions and rulings of the Comptroller of the Currency and the Commissioner of Internal Revenue, in reference to said Act, from 1865 to 1870. This is the first and only edition comprising the entire Act, and the numerous decisions in reference thereto.

### *IV. The Coin Book...\$2 50.*

Comprising a History of Coinage; a Synopsis of the Mint Laws of the United States; Statistics of the Coinage from 1793 to 1870; List of Current Gold and Silver Coins, and their Custom-house Values; a Dictionary of all Coins known in Ancient and Modern Times, with their Values; the Gold and Silver Product of each State to 1870; List of Works on Coinage; the Daily Price of Gold from 1862 to 1871; with Engravings of the Principal Coins.

### *V. Lawson's History of Banking...\$4 00.*

With a comprehensive account of the Origin, Rise, and Progress of the Banks of England, Scotland, and Ireland. The American editor has added forty-six pages, which comprise: 1. A list of rare and useful works on banking. 2. A sketch of the origin of Savings Banks. 3. Index to articles in the English and American periodical writers on banking, coins, currency, finance, gold and silver, interest, mints, money, etc., with the names of the writers. 4. List of works on banks and currency contained in the Boston Athenaeum.

### *VI. The Loan and Currency Acts of the United States...\$2 00.*

The United States bonds are held largely by banking institutions and by capitalists. It is highly important that the acts authorizing such issues should be in the hands of the holders of such bonds, in order that the peculiar conditions under which the several series were issued may be fully understood. The volume comprises all the acts of Congress relating to loans and the currency, from the year 1845 to 1870, both inclusive.

### *VII. A History of the Bank of England...\$5 00.*

Its times and traditions, from 1694 to 1844. By JOHN FRANCIS. With Notes, Additions, and an Appendix, including Statistics of the Bank from 1844 to 1861.

### *VIII. The Banker's Common-Place Book...\$1 50.*

Including contributions by A. B. JOHNSON and others, and a Prize Essay on Banking, or the Duties of a Young Cashier.

### *IX. Bank Architecture...\$5 00.*

The Merchants and Bankers' Almanac for 1868 contains engravings of twelve new designs for Banking houses, to cost from \$5,000 to \$75,000 each. These new Designs present a variety of fronts, adapted to village, town and city Banking institutions, with private residence for the cashier, or with offices for sub-letting; also engravings of prominent bank edifices.

*J. B. Angell*

THE LEGAL TENDER CASES OF 1871,

BEFORE THE SUPREME COURT OF THE UNITED STATES.

---

CONTENTS.

	PAGE
OPINION OF THE COURT, DELIVERED BY JUSTICE STRONG . . . . .	1
OPINION BY JUSTICE BRADLEY . . . . .	2
DISSENTING OPINION BY CHIEF JUSTICE CHASE . . . . .	3
DISSENTING OPINION BY JUSTICE CLIFFORD . . . . .	4
DISSENTING OPINION BY JUSTICE FIELD . . . . .	8

---

NOTES OF CASES REFERRED TO OR QUOTED IN THE ABOVE OPINIONS . . . . .	11
--	----

## NOTES OF CASES

Quoted or Referred to in the Decisions of the Supreme Court of the United States in the  
Legal-Tender Cases of 1871.

	REPORTS.	PAGE
1. Apsden <i>v.</i> Austin.....	5 Adolphus & Ellis.....	113
2. Bank of U. S. <i>v.</i> Bank State of Georgia.....	10 Wheaton.....	114
3. Bank of New York <i>v.</i> Supervisors.....	7 Wallace.....	114
4. Barrington <i>v.</i> Potter.....	1 Dyer.....	114
5. Briscoe <i>v.</i> Bank of Kentucky.....	8 Peters.....	115
6. Bronson <i>v.</i> Rodes.....	7 Wallace.....	115
7. Butler <i>v.</i> Horwitz.....	7 Wallace.....	115
8. Calder <i>v.</i> Bull.....	3 Dallas.....	116
9. Coffin <i>v.</i> Landis.....	10 Wright.....	116
10. Cohens <i>v.</i> Bank of Virginia.....	6 Wheaton.....	116
11. Collector <i>v.</i> Day.....	11 Wallace.....	117
12. Commonwealth of Pennsylvania <i>v.</i> Smith.....	4 Binney.....	117
13. Craig <i>v.</i> State of Missouri.....	4 Peters.....	118
14. Dewing <i>v.</i> Sears.....	11 Wallace.....	119
15. Dobbins <i>v.</i> Brown.....	2 Jones.....	119
16. Dunn <i>v.</i> Sayles.....	5 Queen's Bench.....	119
17. Faw <i>v.</i> Marsteller.....	2 Cranch.....	120
18. Fisher <i>v.</i> United States.....	2 Cranch.....	120
19. Fletcher <i>v.</i> Peck.....	6 Cranch.....	120
20. Fox <i>v.</i> State of Ohio.....	5 Howard.....	121
21. Gibbons <i>v.</i> Ogden.....	9 Wheaton.....	121
22. Gwin <i>v.</i> Breedlove.....	3 Howard.....	121
23. Hepburn <i>v.</i> Griswold.....	8 Wallace.....	122
24. Lane County <i>v.</i> Oregon.....	7 Wallace.....	123
25. Martin <i>v.</i> Hunter.....	1 Wheaton.....	123
26. Metropolitan Bank <i>v.</i> Van Dyck.....	27 New York.....	124
27. McCulloh <i>v.</i> State of Maryland.....	4 Wheaton.....	124
28. Milligan, <i>ex parte</i> .....	4 Wallace.....	124
29. Noonan <i>v.</i> Bradley.....	9 Wallace.....	124
30. Ogden <i>v.</i> Saunders.....	12 Wheaton.....	128
31. Peck <i>v.</i> Sanderson.....	18 Howard.....	128
32. Robinson <i>v.</i> Noble.....	8 Peters.....	128
33. Sibbald <i>v.</i> United States.....	12 Peters.....	129
34. Snow <i>v.</i> Perry.....	9 Pickering.....	129
35. State of Texas <i>v.</i> White.....	7 Wallace.....	130
36. Sturges <i>v.</i> Crowninshield.....	4 Wheaton.....	131
37. Thorndike <i>v.</i> United States.....	2 Mason.....	132
38. Thompson <i>v.</i> Riggs.....	5 Wallace.....	133
39. United States <i>v.</i> Marigold.....	9 Howard.....	133
40. Veazie Bank <i>v.</i> Fenno.....	8 Wallace.....	134
41. Ward <i>v.</i> State of Maryland.....	12 Wallace.....	134
42. Washington Bridge Co. <i>v.</i> Stewart.....	3 Howard.....	135
43. Workman <i>v.</i> Mifflin.....	6 Casey.....	136
44. Willard <i>v.</i> Tayloe.....	8 Wallace.....	136
45. Wright <i>v.</i> Reid.....	3 Term Reports.....	137

One Volume, Octavo. Published at the Office of the Bankers' Magazine, New York.



THE LEGAL TENDER CASES.

*Before the Supreme Court of the United States,*

*December Term, 1870.*

*The case of WILLIAM B. KNOX, Plaintiff in Error, vs. PHOEBE G. LEE and HUGH LEE, her husband. In Error to the Circuit Court of the United States for the Western District of TEXAS, and*

*THOMAS H. PARKER Plaintiff in Error, vs. GEORGE DAVIS. In error to the Supreme Judicial Court of the Commonwealth of MASSACHUSETTS.*

Mr. Justice STRONG delivered the opinion of the Court.

The controlling questions in these cases are the following: Are the acts of Congress, known as the legal-tender acts, constitutional when applied to contracts made before their passage; and, secondly, are they valid as applicable to debts contracted since their enactment? These questions have been elaborately argued, and they have received from the court that consideration which their great importance demands. It would be difficult to over-estimate the consequences which must follow our decision. They will affect the entire business of the country, and take hold of the possible continued existence of the government. If it be held by this court that Congress has no constitutional power, under any circumstances, or in any emergency, to make treasury notes a legal tender for the payment of all debts, (a power confessedly possessed by every independent sovereignty other than the United States,) the government is without those means of self-preservation which, all must admit, may, in certain contingencies, become indispensable, even if they were not when the acts of Congress now called in question were enacted. It is also clear that if we hold the acts invalid as applicable to debts incurred, or transactions which have taken place since their enactment, our decision must cause, throughout the country, great business derangement, wide-spread distress, and the rankest injustice. The debts which have been contracted since February 25, 1862, constitute, doubtless, by far the greatest portion of the existing indebtedness of the country. They have been contracted in view of the acts of Congress declaring treasury notes a legal tender, and in reliance upon that declaration. Men have bought and sold, borrowed and lent, and assumed every variety of obligations contemplating that payment might be made with such notes. Indeed, legal-tender treasury notes have become the universal measure of values.

If now, by our decision, it be established that these debts and obligations can be discharged only by gold coin; if, contrary to the expectation of all parties to these contracts, legal-tender notes are rendered unavailable, the government has become an instrument of the grossest injustice; all debtors are loaded with an obligation it was never contemplated they should assume; a large percentage is added to every debt, and such must become the demand for gold to satisfy contracts, that ruinous sacrifices, general distress, and bankruptcy may be expected. These consequences are too obvious to admit of question. And there is no well-founded distinction to be made between the constitutional validity of an act of Congress declaring treasury notes a legal tender for the payment of debts contracted after its passage and that of an act making them a legal tender for the discharge of all debts, as well those incurred before as those made after its enactment. There may be a difference in the effects produced by the acts, and in the hardship of their operation, but in both cases the fundamental question, that which tests the validity of the legislation, is, can Congress constitutionally give to treasury notes the character and qualities of money? Can such notes be constituted a legitimate circulating medium, having a defined legal value? If they can, then such notes must be available to fulfill all contracts (not expressly excepted) solvable in money, without reference to the time when the contracts were made. Hence it is not strange that those who hold the legal-tender acts unconstitutional when applied to contracts made before February, 1862, find themselves compelled also to hold that the acts are invalid as to debts created after that time, and to hold that both classes of debts alike can be discharged only by gold and silver coin.

The consequences of which we have spoken, serious as they are, must be accepted, if there is a clear incompatibility between the Constitution and the legal-tender acts. But we are unwilling to precipitate them upon the country, unless such an incompatibility plainly appears. A decent respect for a co-ordinate branch of the government demands that the judiciary should presume, until the contrary is clearly shown, that there has been no transgression of power by Congress—all the members of which act under the obligation of an oath of fidelity to the Constitution. Such has always been the rule. In *COMMONWEALTH vs. SMITH*, (4 *Binney*, 123,) the language of the court was, "it must be remembered that, for weighty reasons, it has been assumed as a principle, in construing constitutions by the Supreme Court of the United States, by this court, and by every other court of reputation in the United States, that an act of the legislature is not to be declared void unless the violation of the Constitution is so manifest as to leave no room for reasonable doubt;" and, in *FLETCHER vs. PECK*, (6 *Cranch*, 87,) Chief Justice MARSHALL said "it is not on slight implication and vague conjecture that the legislature is to be pronounced to have transcended its powers and its acts to be considered void. The opposition between the Constitution and the law should be such that the judge feels a clear and strong conviction of their incompatibility with each other." It is incumbent, there

fore, upon those who affirm the unconstitutionality of an act of Congress to show clearly that it is in violation of the provisions of the Constitution. It is not sufficient for them that they succeed in raising a doubt.

Nor can it be questioned that, when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is an universal rule of construction applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered. And there are more urgent reasons for looking to the ultimate purpose in examining the powers conferred by a constitution than there are in construing a statute, a will, or a contract. We do not expect to find in a constitution minute details. It is necessarily brief and comprehensive. It prescribes outlines, leaving the filling up to be deduced from the outlines. In *MARTIN vs. HUNTER*, 1 *Wheaton*, 326, it was said, "the Constitution unavoidably deals in general language. It did not suit the purpose of the people in framing this great charter of our liberties to provide for minute specifications of its powers, or to declare the means by which those powers should be carried into execution."

And with singular clearness was it said by Chief Justice MARSHALL, in *McCULLOH vs. THE STATE OF MARYLAND*, 4 *Wheaton*, 405: "A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which it may be carried into execution, would partake of the prolixity of a political code, and would scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves." If these are correct principles, if they are proper views of the manner in which the Constitution is to be understood, the powers conferred upon Congress must be regarded as related to each other, and all means for a common end. Each is but part of a system, a constituent of one whole. No single power is the ultimate end for which the Constitution was adopted. It may, in a very proper sense, be treated as a means for the accomplishment of a subordinate object, but that object is itself a means designed for an ulterior purpose. Thus the power to levy and collect taxes, to coin money and regulate its value, to raise and support armies, or to provide for and maintain a navy, are instruments for the paramount object, which was to establish a government, sovereign within its sphere, with capability of self-preservation, thereby forming an union more perfect than that which existed under the old Confederacy.

The same may be asserted also of all the non-enumerated powers included in the authority expressly given "to make all laws which shall be necessary and proper for carrying into execution the specified