

**A STUDY OF LEGAL  
TENDER IN  
ENGLAND. PP. 1 - 47**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649266081

A Study of Legal Tender in England. pp. 1 - 47 by Sophonisba P. Breckinridge

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)

**SOPHONISBA P. BRECKINRIDGE**

**A STUDY OF LEGAL  
TENDER IN  
ENGLAND. PP. 1 - 47**



4

*Thesis  
from*

THE UNIVERSITY OF CHICAGO  
FOUNDED BY JOHN D. ROCKEFELLER

A STUDY OF LEGAL TENDER IN  
ENGLAND

A DISSERTATION

SUBMITTED TO THE FACULTY OF THE GRADUATE SCHOOL OF ARTS AND  
LITERATURE FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

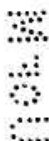
(DEPARTMENT OF POLITICAL SCIENCE)

BY

SOPHONISBA P. BRECKINRIDGE

CHICAGO  
1903

[The chapters constituting this Dissertation are taken from a larger volume entitled *Legal Tender; a Study in English and American Monetary History*, which has appeared as Volume VII, Second Series, of the Decennial Publications of the University of Chicago.]



## TABLE OF CONTENTS

### LEGAL TENDER IN ENGLISH HISTORY

<b>C</b>	<b>CHAPTER I. Introduction</b> - - - - -	<b>1</b>
	Purpose of inquiry.	
	Scope of discussion.	
	Definition of "legal tender," as employed in this discussion.	
<b>D</b>	<b>CHAPTER II. Constitutional Development of England</b> - - -	<b>4</b>
	Purpose of chapter.	
	Relation of Crown to those advisory councils out of which Parliament was developed, to 1154.	
	Period of establishment of Parliament and parliamentary rights, 1154-1377.	
	Period of aggrandizement of Crown, 1377-1603.	
	Establishment of responsible government and transfer of sovereignty to Parliament, 1603-1816.	
<b>L</b>	<b>CHAPTER III. Power over the Coinage a Part of the Royal Prerogative</b> - - - - -	<b>9</b>
<b>O</b>	Source of the power or agent in the state by whom it was exercised.	
<b>I</b>	Unquestioned power of the Crown, 1066-1311.	
<b>T</b>	Parliamentary efforts to assume, 1311-1485.	
	Confirmation of power by Parliament, 1485-1695.	
	Surrender of power by the Crown with retention of ancient forms of exercise, 1695-1816.	
	Content of power.	
	Mode of exercise.	
	Summary of chapter.	
<b>E</b>	<b>CHAPTER IV. All Lawful Money a Legal Tender</b> - - -	<b>16</b>
	Contrast between English and American manner of constituting money a tender.	
	Distinction between cash and time transactions, executed and executory contracts.	
	Executed contracts; cash transactions.	
	Caution necessary in considering a period of such length.	
	The relations between coins of the two metals in executed contracts.	
	Method of enforcement.	

Transactions with the king's officers.
Executory contracts; time transactions.
Transfer of interest to this class of transactions because of commercial development.
Statement of the law.
Development of the law.
Citation of cases.
Method of sanction.
Summary.

CHAPTER V. History of the Exercise of the English Coinage Power . . . . . 27

Plan of chapter.
Original standard of coinage in England.
Period prior to debasements, 1066-1272.
Period of first debasement. Attempts to obtain good circulating medium, 1272-1327.
Period of second debasement. Attempts to establish international currency, 1327-77.
Difficulties connected with the currency.
Successful introduction of gold into currency system.
Debasements; in 1344, 1346, and 1361.
Reasons for debasements.
Profits arising from coinage: nature of seigniorage.
Efforts to meet difficulties growing out of the state of the coinage and the conditions of international trade.
Period of mercantile policy, 1377-1816.
Inauguration of policy, 1377-1509.
Inquiry into causes of distress.
Debasement of coinage in accordance with act of Parliament, 1411.
Prohibition laid on contracts in terms of gold.
Further debasement, 1464.
Period of extraordinary debasements and partial restoration of coins, 1509-1603.
Chaotic character of period.
First alteration under Henry VIII., 1527.
Subsequent alterations.
Debasements by Henry VIII. and Edward VI., 1543-51.
Restoration, 1561-1600.
Final debasement, 1601.
Reasons for debasements of this period.
Period during which alterations were made in relative values to secure concurrent circulation, 1603-1816.



---

Maladjustment of mint ratios.  
Criminal practices connected with the coins.  
Remedies.  
    Recoinage of silver, 1695.  
    Reduction of value of gold coin.  
    Legislation limiting the legal-tender power of silver, 1774-1816.  
Summary of results obtained in chapters I-V.  
Answer to first question proposed: The Crown the agent of state by whom the power was exercised.  
Answer to second question: Both gold and silver a legal tender.  
Answer to third question: Reasons for special forms of exercise of power.  
    Mistaken policy.  
    Desire for revenue.  
Coincidence of formulation of law and cessation of debasement.



## CHAPTER I

### INTRODUCTION

THE purpose of the present study is to obtain such understanding of the origin, nature, and function of the legal-tender quality of money as may be gained from asking the three following questions and answering them as fully as may be with respect to English and American experience:

What organ of the state has exercised the power of bestowing upon money the quality of being a legal tender? With respect to what forms of money or substitutes for money has the power been exercised? What have been the reasons for such exercise?

It has been held by some writers that the power to bestow this quality upon money is a power having its origin in tyranny,<sup>1</sup> and corruption<sup>2</sup> for its purpose. That the power is one subject to abuse is patent, and that it is a power which has been abused is one of the conspicuous facts of history; yet, allowing for these objections, certain questions suggest themselves: Has the power no legitimate place in a scheme of governmental powers? When possessed, has it been so exercised as to show that it should be prohibited altogether, or is it a power whose exercise should be care-

<sup>1</sup>"The origin of legal tender among English-speaking people was the decree of an English king making it a penal offense to refuse the king's money after he had debased it."—Mr. EDWARD ATKINSON, "The Unit of Value in All Trade," *Engineering Magazine*, August, 1893, p. 565.

<sup>2</sup>"Profligate governments having until a very modern period never scrupled for the sake of robbing their creditors to confer on all other debtors a license to rob theirs by the shallow and impudent artifice of lowering the standard; that least covert of all modes of knavery, which consists in calling a shilling a pound that a debt of a hundred pounds may be cancelled by the payment of one hundred shillings."—J. S. MILL, *Principles of Political Economy*, Book III, chap. vii, § 2.