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Bedford Inquirer.

A LOCAL AND GENERAL NEWSPAPER, DEVOTED TO POLITICS, EDUCATION, LITERATURE AND MORALS.

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Will faithfully and promptly attend to all business entrusted to his care in Bedford and adjoining counties. Military claims, Pensions, back pay, Bounty, &c. speedily collected. Office with Mann & Spang, on Juliana street, 2 doors south of the Mengel House. apl 1, 1864.—tf.

B. F. MEYERS.....J. W. DICKERSON
MEYERS & DICKERSON, ATTORNEYS AT LAW, BEDFORD, PENN'A.,
Office nearly opposite the Mengel House, will practice in the several Courts of Bedford county. Pensions, bounties and back pay obtained and the purchase of Real Estate attended to. [may11,'66-1y

J. B. CESSNA, ATTORNEY AT LAW,
Office with JOHN CESSNA, on the square near the Presbyterian Church. All business entrusted to his care will receive faithful and prompt attention. Military Claims, Pensions, &c., speedily collected. [June 9, 1865.

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ATTORNEY AND COUNSELLOR AT LAW, and REAL ESTATE AGENT.
Office on Main Street, between Fourth and Fifth, Opposite the Court House, KANSAS CITY, MISSOURI.
Will practice in the adjoining Counties of Missouri and Kansas. July 12:tf

S. T. RUSSELL.....J. H. LONGENECKER
RUSSELL & LONGENECKER, ATTORNEYS & COUNSELLORS AT LAW, Bedford, Pa.,
Will attend promptly and faithfully to all business entrusted to their care. Special attention given to collections and the prosecution of claims for Back Pay, Bounty, Pensions, &c.
Office on Juliana street, south of the Court House. April5:1yr.

J. M'D. SHARPE.....B. F. KERR
SHARPE & KERR, ATTORNEYS-AT-LAW.
Will practice in the Courts of Bedford and adjoining counties. All business entrusted to their care will receive careful and prompt attention. Pensions, Bounty, Back Pay, &c., speedily collected from the Government.
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DURBORROW & LUTZ, ATTORNEYS AT LAW, BEDFORD, PA.,
Will attend promptly to all business intrusted to their care. Collections made on the shortest notice.
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Office on Juliana street, one door South of the 'Mengel House" and nearly opposite the *Inquirer* office. April 28, 1865:tf.

PHYSICIANS.

WM. W. JAMISON, M. D., BLOODY RUN, PA.,
Respectfully tenders his professional services to the people of that place and vicinity. [dec8:1yr

DR. B. F. HARRY,
Respectfully tenders his professional services to the citizens of Bedford and vicinity. Office and residence on Pitt Street, in the building formerly occupied by Dr. J. H. Hofius. [Ap'l 1,64.

J. L. MARBOURG, M. D.,
Having permanently located respectfully tenders his professional services to the citizens of Bedford and vicinity. Office on Juliana street, opposite the Bank, one door north of Hall & Palmer's office. April 1, 1864—tf.

DR. S. G. STATLER, near Schellsburg, and Dr. J. J. CLARKE, formerly of Cumberland county, having associated themselves in the practice of Medicine, respectfully offer their professional services to the citizens of Schellsburg and vicinity. Dr. Clarke's office and residence same as formerly occupied by J. White, Esq., dec'd.
S. G. STATLER,
Schellsburg, April12:1y. J. J. CLARKE.

HOTELS.

CHALYBEATE HOUSE.
NOTICE.—Persons visiting the Watering Places, will find a very desirable resort at the CHALYBEATE HOUSE, near the Chalybeate Spring, Bedford, Pa., where the undersigned is prepared to accommodate from eighty to one hundred persons. The house is new and airy, and neatly furnished. Terms moderate.
Hacks running to Mineral Springs, and Mineral Water always on hand.
May 31.3m WM. CHENOWETH.

WASHINGTON HOTEL.
This large and commodious house, having been re-taken by the subscriber, is now open for the reception of visitors and boarders. The rooms are large, well ventilated, and comfortably furnished. The table will always be supplied with the best the market can afford. The Bar is stocked with the choicest liquors. In short, it is my purpose to keep a FIRST-CLASS HOTEL. Thanking the public for past favors, I respectfully solicit a renewal of their patronage.
N. B. Hacks will run constantly between the Hotel and the Springs.
may17,'67:1y WM. DIBERT, Prop'r.

MISCELLANEOUS.

RUPP & SHANNON, BANKERS, BEDFORD, PA.
BANK OF DISCOUNT AND DEPOSIT.
Collections made for the East, West, North and South, and the general business of Exchange transacted. Notes and Accounts Collected and Remittances promptly made. REAL ESTATE bought and sold. feb22

DANIEL BORDER,
PITT STREET, TWO DOORS WEST OF THE BEDFORD HOTEL, BEDFORD, PA.
WATCHMAKER AND DEALER IN JEWELRY, SPECTACLES, &C.
He keeps on hand a stock of fine Gold and Silver Watches, Spectacles of Brilliant Double Refined Glasses, also Scotch Pebble Glasses. Gold Watch Chains, Breast Pins, Finger Rings, best quality of Gold Pens. He will supply to order any thing in his line not on hand. [apr.28,'65.

OYES! O YES!—The undersigned has taken out auction license, and tenders his services to all who have sales or auctions to cry. Give him a call. Post Office address, Spring Meadows, Bedford county, Penn'a.
April5:6m* HENRY B. MOCK.

Political.

SHARSWOOD ON LEGAL TENDERS.

DISTRICT COURT OF PHILADELPHIA.

Borie vs. Trott. Constitutionality of legal-tender notes. Case stated. Opinion by Sharswood, P. J.

If any point may be considered as well settled, it is that the Constitution of the United States is a special grant or delegation of limited powers to the Federal Government. "It has been truly said," observes C. J. Marshall, in the United States, vs. Fisher, 2 Cranch, 212, "that under a Constitution conferring specific powers, the power contended for must be granted or it cannot be exercised." The same thing has been affirmed by Mr. Justice Story in Martin vs. Hunter's Lessees, 1 Wheaton, 326. "The Government of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication. And not to multiply citations—on so clear a principle—again by C. J. Marshall in McCullough vs. The State of Maryland, 4 Wheaton, 405. "This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it, would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge. *That principle is now universally admitted.*"

It follows that to sustain the constitutionality of an act of Congress—to determine that it is a law—an authority for it must be affirmatively shown. That authority must exist in the Constitution in express words, or the act must appear to be necessary and proper for carrying into execution some power or powers vested in Congress, in the Government of the United States, or in some department or officer thereof.

By this rule we are now to decide whether that clause of the act Congress approved Febuary 25,1862, entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," which provides that the notes issued in pursuance of that act "shall be lawful money, and a legal tender in payment of all debts public and private"—is or is not a law of the land.

The counsel of the defendant—recognizing that on him rested the burden of maintaining the affirmative of this issue—claimed that the provision referred to was an exercise of authority vested in Congress under one or other of the following clauses of the enumeration in section 8 of article 1:

Paragraph 2. To borrow money on the credit of the United States.

Par. 3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes.

Par. 5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weight and measures.

Par. 18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by the Constitution in the Government of the United States, or in any department or office thereof.

I propose to examine these clauses with such other parts of the Constitution as have been supposed, in the course of the argument, to illustrate them. I feel some degree of confidenc, not only from the well-known ability, learning, and research of the counsel for the defendants, but from my own investigations, that if the act of Congress in question cannot be sustained on either of these clauses, it cannot be sustained at all.

I will begin with the last paragraph of the enumeration, because its proper construction has an important bearing on the others—Par. 18: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers." I will not here revert to political and controverted grounds, nor to the argument by which, in the *Federalist*, No. 44, and elsewhere, the objections of the enemies of the Constitution to the sweeping words of this clause were met and answered by "its enlightened friends." I will take exclusively as my guide the principles judicially settled by the Supreme Court of the United States in the leading case of McCullough vs. The State of Maryland (4 Wheat., 316) The rule established in that case is well expressed by the reporter in the syllabus. If the end be legitimate, and within the scope of the Constitution, all the means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may constitutionally be employed to carry it into effect. Let us recur, however, to the very words of the opinion, as delivered by C. J. Marshall: "We think the sound construction of the Constitution must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, and which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."—P. 421.

This is certainly a very large charter to the discretion of Congress, yet as a rule for judicial cases I am willing to accept it. It is apparent, however, from the very terms in which the principle is enunciated, that this discretion is not without limits.

It is not Congress which is to be the final judge as to whehter a measure is necessary and proper for carrying into effect any of the delegated powers. Were it so, the enumeration would have been a vain and delusive mockery, and the fundamental principle that the Federal Government is one merely of limited authority, and unmeaning formula of words,

The limits plainly set in this language are these: 1 The end must be legitimate, and within the scope of the Constitution. 2. The means must be appropriate and adapted to the end. 3. The means must not themselves be prohibited, but consist with the letter and spirit of the Constitution.

There is, however, another limitation upon the discretion of Congress in the choice of necessary and proper means. It is clearly stated in McCullough vs. The State of Maryland, and indeed the principle of it may be considered to have ruled that case. I quote again the very words of the opinion;

"The power of creating a corporation, though appertaining to sovereignty, is not like the powers of making war or levying taxes, or of regulating commerce a great substantive and independent power, *which cannot be implied* as accidental to other powers, or used as a means of executing them." (Wheaton ,411.)

I understand the Supreme Court in this language to lay down the simple and reasonable—I might perhaps, say the self-evident—proposition, that no one enumerated power can be incidental to another enumerated power. Three cases are stated as examples of substantive powers, but clearly only as examples. We have no right to say that any one of the express powers is more substantive and independent than another. Their very expression authoritatively stamps their character. If, therefore, a power is delegated, but in terms which import a limitation or qualification, it cannot be exercised as incidental to some other power, disregarding the limitation or qualification annexed to the express grant. Indeed, such limitation or qualification may be considered as a prohibition against the exercise of that power in any other way, and, therefore, within the limit which the Supreme Court places upon the discretion of Congress in the enunciation of the general principle, viz.: that Congress cannot employ a measure, however necessary and proper it may be for carrying into effect some express power, if that measure has been prohibited.

I pass now to the consideration of those grants, from which by the aid of the last paragraph of the enumeration, it is contended that Congress has authority to issue what the act calls "United States notes," and to make them a legal tender in payment of all debts, public and private.

I. "To regulate commerce with foreign nations and among the several States and with the Indian tribes." (Art. 1. sect. 8. paragraph 3.)

It must be admitted that standards of value, and of weight and measures are means very appropriate and adapted to the regulation of commerce. But then we have in this enumeration a clause which expressly grants and defines the authority to create such standards. If it directs of what they shall consist, Congress cannot make another kind as incidental to the regulation of commerce.

With equal plausibility might it be pretended that, for the regulation of commerce, Congress could lay duties, imposts, and excises, and pass bankrupt laws. Such measures might be very appropriate and adapted to that end. Yet surely it will not be maintained that, assuming these powers as incidental, Congress could disregard the rule of uniformity, which limits and qualifies the express delegation of them. This qualification is, in fact, a prohibition of any duties, imposts, or excises, which shall not be uniform throughout the United States—of any laws on the subject of bankruptcies which shall not, in like manner, be uniform throughout the United States. (Art. 1, sec. 8, par. 14.) These cases present a perfect illustration of the soundness of the limit to the discretion of Congress, prescribed by the Supreme Court, that a substantive power shall not be exercised as incidental. I do not, however, consider them as any more perfect than the very case before us. If the power to create a standard of value and medium of exchange is expressly delegated, but confined by its terms, as we will presently see that it is, to coins—foreign or domestic—it is a prohibition of any other kind of money. Congress cannot, under the pretext of regulating commerce, infringe the prohibition thus laid on them.

II. "To borrow money on the credit of the United States." (Art. 1, sect. 8, per. 2.)

It has been argued that under this clause Congress may issue these "United States notes," because they are only acknowledgments of debt in a negotiable form, and in order to give them greater credit make them a legal tender. That there may be constitutionally issued to the public creditor certificates of the amount due, transferable by assignment—or bonds or notes payable to bearer, which can pass from hand to hand by mere delivery—I do not deny. These are all securities, and Congress is vested expressly with power "to provide for the punishment of counterfeiting the securities and current coin of the United States." (Art. 1, sec. 8, par. 6.) This language is accurate. Securities *ex vi termini* are something different from money. This view is strengthened when we find the coin described in the same paeagraph as *current coin*.

These United States notes are not securities for money which may be issued under authority to borrow, but they are "bills of credit"—things distinct and digerent from securities. That there is such a distinction may be clearly shown by the judgments of the highest tribunal, which gives the law on these subjects to all other courts. According to that tribunal, bills of credit are not certificates of loan—not treasury bonds or notes—not acknowledgments of indebtedness, all of which are mere securities, but bills invested with the functions of money—just such bills as the United States notes issued in pursuance of the act of Congress in question. In Craig vs. the State of Missouri (4 Peters 431), C. J. Marshall, in delivering the opinion of the court, says: "In its enlarged and perhaps literal sense the term 'bill of credit' may comprehend any instrument, by which a State engages to pay money at a future day; thus including a certificate given for money borrowed. But the language of the Constitution itself, and the mischief to be prevented, which we know from the history of our country, equally limit the interpratation of the term. The word 'emit' is never employed in describing those contracts by which a State binds itself to pay money at a future day for services actually received or for money borrowed for present use; nor are instruments executed for such purposes in common language denominated 'bills of credit.'" To 'emit bills of credit' conveys to the mind the idea of issuing *paper intended to circulate through the community for its ordinary purposes as money*, which paper is redeemable at a future day. This is the sense in which the terms have always been understood." The definition here given was subsequently reconsidered and sustained in Briscoe vs. The Bank of Kentucky, 2 Peters, 257.

According to this clear and authoritative exposition, what distinguishes bills of credit from such securities as are issued to the public creditor is that the former are, and the latter are not, intended to circulate as money. These United States' notes, then, are not acknowledgments of debt nor "securities of the United States," but "bills of credit;" in other words, "money." Indeed, this act of Congress of February 25, 1862, intends to leave no doubt on that point, for it expressly declares that they shall be "lawful money." In conformity, then to the principle, as settled by the Supreme Court in McCullough vs. the State of Maryland, we must turn to the money clause to ascertain whether Congress had authority to make them "lawful money." That body cannot, as incidental to the power to borrow, create any kind of money, which will not stand the test of the express power which is granted on that subject.

If any doubt remains as to whether the right to emit bills of credit—to make paper money—can be exercised as incidental to the borrowing power, it ought, as it appears to me, to be entirely dissipated by the proceedings of the Federal Convention when this clause was before them. I freely admit that the opinions expressed in that body are not conclusive upon the interpretation of the Constitution. That instrument is to be construed like all others—by its four corners. But surely as C. J. Marshall relied "on the history of our country" in limiting the meaning of the words "bills of credit," we may resort for light to the opinions and votes of the men who framed the Constitution, in deciding whether, in the words "to borrow money," was intended to be included "to emit bills of credit," for that is the precise question we have here to consider.

By the ninth of the old articles of confederation, section 5, it was declared that "the United States in Congress assembled, shall have authority to borrow money or emit bills on the credit of the United States." In the plan of the Constitution, as reported to the convention by the committee of detail, of which Mr. Rutledge was chairman—this clause was copied—"to borrow money and emit bills on the credit of the United States." On the 17th of August, 1787, in convention, Mr. Gouverneur Morris, of Pennsylvania, moved to strike out the words, "and emit bills." There was a debate on this motion, which is reported by Mr Madison. It was argued by some, and Mr. Madison himself among the number, that the words had better remain, with a provision prohibiting them from being made a legal tender. Mr. James Wilson, of Pennsylvania, afterwards one of the justices of the Supreme Court of the United States, appointed by President Washington, contended that it would have a most salutary influence on the credit of the United States "to remove the *possibility of paper money*." Other members who spoke concurred with him in this view. The motion was carried, and the words stricken out by a vote of nine States to two. Mr. Madison has added in a foot note, that the vote by Virginia in the affirmative was occasioned by his acquiescence, because he became satisfied that striking out the words would not disable the Government from the use of public notes, as far as they could be safe and proper, and would only cut off *the pretext for a paper currency*, and particularly for making the bills *a tender either for public or private debts*. (5 Elliott's Debates, 434, 435.) I do not know how these proceedings may strike other minds, but they have convinced me that the Federal Convention understood by "bills of credit," not securities—certificates of loans or indebtedness, treasury notes, or exchequer bills—but just what Chief Justice Marshall afterwards defined them to be, "paper money," and meant to deny to Congress the power to make such money.

Luther Martin, in the address to the Maryland Legislature, in justification of his course in retiring from the Federal Convention, has also given a brief sketch of this interesting debate, which corresponds in the main with that of Mr. Madison. He declares in the most emphatic manner that "a majority of the convention being willing to risk any political evil rather than admit the idea of a *paper emission in any possible case*, refused to trust this authority to the Government." (Secret Proceedings of the Federal Convention, p. 57.) He afterwards informs the Legislature, as indicative of the temper of the body from which he had withdrawn, that as the Constitution "was reported by the committee of detail, the States were only prohibited from emitting them (bills of credit), *without the consent of Congress*; but the convention were so smitten *with the paper-money dread*, that they insisted that the prohibition should be absolute." "It was my opinion, sir," he proceeds to say, "that the States ought not to be totally deprived of the right to emit bills of credit, and that as we had not given an authority to the General Government for that purpose, it was the more necessary to retain it in the States."

The members of the Federal Convention truly represented the views and feelings of the people of the States by whom they had been chosen. No one acquainted with the history of the Revolution can be surprised at the extreme jealousy entertained of investing either the Federal or State Governments, or even both, by joint action, with any discretion on this subject. It is plain that the men who framed the Constitution—the men who ratified it in the State Conventions—the great mass of their constituents—meant nothing less than to exclude forever, *in any possible case*—(Mr. Martin) —*the possibility of paper money*—(Mr. Wilson.) The public faith again and again solemnly pledged for the redemption of the Continental bills of credit, had been shamefully violated. The tender laws of the States, enacted at the urgent solicitation of Congress for the purpose of sustaining their credit, had utterly failed. The amount of private wrong thereby inflicted on individuals and families was incalculable. Congress, in a circular address in 1779—after promising solemnly that the amount of the bills should on no account exceed $200,000,000—indignantly repelled the idea that there could be any violation of the public faith, or that there did not exist ample funds to redeem them. The emission, however, very soon after swelled to $379,000,000, and having ceased to circulate, quietly died in the hands of its possessors. (3 Story on the Const., 233-224.) No financiering was found so easy, so attractive, and at the same time so delusive and destructive as that of resorting to paper money. "Who," said a member of the Revolutionary Congress in debate, "will consent to load his constituents with taxes, when we can send to our printer and get a wagon-load of money, and pay for the whole with a quire of paper?" (Breck's History of Continental money, p. 13.) Well said Mr. Read, of Delaware, in the Federal Convention, that such a power would stamp the Constitution with "the mark of the beast in Revelations;" and Mr. Langdon, of New Hampshire, only expressed the feelings of the entire country when he declared that he would rather reject the whole plan than retain the three words "and emit bills." It requires but a slight knowledge of the times to conclude that if these three words had been retained, or had it been imagined that though stricken out, as by comparing the new with the old system everybody could see that they were, they still lurked in the instrument as incidental to some other power, the Federal Constitution would never have been ratified by nine States. In the discussion and publications which followed on the promulgation of the plan, before proceeding to vote on it in the State conventions, as well as in the debates of those bodies, so far as they have been preserved and handed down to us, though every hole and corner of the instrument was ransacked to find objections, I am not aware that it was ever suggested that it might possibly contain so odious and unpopular a power. The voice of the instrument itself appeared sufficiently marked as unmistakable.

II. I come now to consider the remaining clause, which has been relied on as the source of authority to pass the act in question. "To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures." (Art. 1. sec. 8, par. 5.) It is evident not merely from the words, but from their juxtaposition with the clause for fixing a standard of weights and measures, that the Constitution intends that the money of the United States shall be not merely a medium of exchange, but a *standard of value*. Uniformity and stability were the ends in view, and for this reason these powers were vested exclusively in the Federal Government. Here, and here alone, and not as a mere incident to something else, are we to look for whatever authority Congress possesses over the subject of money. These words seem to me to sanction only coins ot metallic currency. In the *Federalist*, No. 42, this is taken for granted. "All that need be remarked on the power to coin money, regulate the value thereof, and of foreign coin, is, that by providing for this last case the Constitution has supplied a material emmission in the articles of confederation. The authority of the existing Congress is restrained to the regulation of coin *struck* by their own authority or that of the respective States. It must be seen at once that the *proposed uniformity in the value of the current coin* might be destroyed by subjecting that of foreign coin to the different regulations of the different States." Judge Story thought so, for he says, "The power to coin money is one of the ordinary prerogatives of sovereignty, and is almost universally exercised in order to preserve a proper circulation of *good coin of a known value* in the home market." (3 Story on the Const., 17.) But the Supreme Court of the United States have not left to inference, but have distinctly declared the same opinion in The United States vs. Marigold, 9 Howard, 560, which an act of Congress punishing the offence of importing spurious coin was held to be constitutional on the ground that the provisions of the act appertained, to use the very words of the opinion, "to the execution of an important trust invested by the Constitution, and to the obligation to fulfill that trust on the part of the Government, namely, the trust and duty of creating and maintaining a *uniform and pure metallic standard of value* throughout the Union. The power of coining money and of regulating its value was delegated to Congress by the Constitution for the very purpose, as assigned by the framers of that instrument, of creating and preserving the uniformity and purity of such *a standard of value*.

The word *coin* is one of well-settled meaning. The primary sense of the *noun*, according to Dr. Webster, is "the die used for stamping money," and the undisputed signification of the *verb*, according to most, if not all, the lexicographers, is "to stamp metal and convert it into coin." In Wharton's Law Lexicon (*ad verbum*) it is said: "Strictly speaking, coin differs from money as the species differs from money as the species differs from the genus. Money is any matter, whether metal, paper, beads, shells, &c., which has currency as a medium in commerce. *Coin is a particular species, always made of metal, and struck according to a certain process called coining.*" It was urged at the bar—I do not know whether seriously or not—that printing is stamping, and these notes might therefore literally be said to be coined. No such use of the word in any author has been shown. We may say figuratively *to coin a story* meaning to invent one, but never *to coin the book* in which it is printed. The story is a fiction—the coinage of the brain—the book a reality. Surely, however, no one will contend in earnest, that if a sufficient number of clerks had been employed, and these notes had all been written with the hand, they would have been unconstitutional, but that printing them makes them valid. To state the case thus is to reduce the argument to an absurdity.

It may seem like laboring unnecessarily a very plain proposition, but I will hazard some further illustrations.

The notes in question draw a plain distinction on their face between themselves and coins. They promise to pay *dollars*. What is a *dollar?* To a similar question, What is a pound? Sir Robert Peel answered: "A pound is a definite quantity of gold, with a mark upon it to determine its weight and fineness." Many pages have been written to controvert this definition, and to prove that a pound is a mere abstraction—something like a mathematical point without length, breadth, or thickness. But common sense, I think vindicates Sir Robert Peel. A standard measure must be some actual length or capacity—a standard weight some actual weight. How else can other weights and measures be compared with it? This is the object of a standard. So a standard of value must be some actual value. I would say, drawing the definition from the statute book—I know not where else to look for it—a dollar is a silver coin, weighing four hundred and twelve and one half grains, or a gold coin, weighing twenty five and four fifths grains, of nine-tenths pure to one tenth alloy of each metal. These notes, then, promise to pay coins. To say that they are themselves coins is to make the promise and performance identical.

As they do not state on their face when they are to be paid, in law, if issued by an individual or corporation, they would be payable on demand. (Whitlock vs. Underwood, 3 B. & C., 187; Story on Notes, par. 20.) Payable in what? In themselves, if they are coins, or dollars. They are promises to pay on demand payable in promises to pay on demand. A promise to pay may represent coin, and circulate as such. It is properly designated as *currency*, and is one of many modes by which the use of an expensive standard may be spared by the substitution, as a medium of exchange of public or private credit. It is same and convenient as well as economical, as long as it represents the standard, by being immediately convertible into coin. But in its very nature it is not coin. Its value or power of purchasing other commodities depends as well upon the confidence of the community in the ability and intention of the issuers to redeem it as upon the amount issued." Coin, upon the other hand, possesses present, actual, intrinsic value. If you obliterate from the pound weight the public mark which attests its conformity to the standard, it still weighs the same as before. So you may erase the image from the coin, yet its value remains. Blot out however, the superscription from these pieces of paper, and nothing remains—they are worthless. The stamp on the coin is really nothing but a certificate of the weight and fineness of that piece of metal. Government guarantees nothing but this—makes no contract to deliver corn, wool, or leather in exchange for it. The power of regulating its value can only extend to declaring that in law a certain number of one coin shall be deemed the equivalent of another of a different denomination in contracts and other transactions. In the market, unequal values cannot be made equal by law. Congress has no power to enact how many bushels of wheat an eagle shall exchange for, and if they had, and should make the experiment, the act, like all attempts by Government to change the laws of value, which are natural laws, would be futile.

The legislation of Congress upon this subjert recognizes the difference between these United States notes and coin, and that they are not of equal value.

The act before us (Feb. 25, 1862) requires duties on imports and the interest of the public debt to be paid in coin, and provides that the notes "shall be received *the same as coin at their par value* in payment for any loans that may thereafter be sold or negotiated by the Secretary of the Treasury." So by the act of March 17, 1862, the Secretary of the Treasury is authorized to purchase coin with them at such rates and upon such terms as he may deem most advantageous to the public interest. And the act of March 3, 1863, prohibits the loan of *currency* or money on the security of gold or silver coins, exceeding in amount the *par value of the coin* pledged or deposited as security. By the first of these acts coin is treated as the standard; by the last, paper. The one speaks of the *par value of the notes*, the other of the *par value of the coins*.

If the word *coin* has any more general or figurative sense in the phrase, *to coin money*, than that I have assigned to it, it must be held to have the same in other parts of the article. In foreign coin will be included foreign paper money, and Congress may regulate its value, and make it a legal render. They may thus treat notes of the Bank of England and France, Austrian and Russian government money, but not State bank notes. Congress has no power of regulating the value of any money except foreign coins and money coined by its own authority. If to coin money means to stamp paper, then the clause which forbids the States "to emit bills of credit" was unnecessary; the prohibition "to coin money" included it. The terms of that very prohibition show that in the minds of the makers of the Constitution "to coin money" and "emit bills of credit" were two entirely distinct and different things. In short, in whatever point of view it is regarded, it seems to me that the position that this clause authorizes or permits any other but metallic money is untenable.

The restrictions on the States illustrate and confirm the opinion which I have expressed upon the proper construction of the paragraph before us. "No State shall coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts; pass any law impairing the obligations of contracts." (Art. 1, sec. 10.) The whole power over contracts resided in the States before the ratification of the Federal Constitution. This section admits it and leaves it there, subject only to two restrictions, both having the same end in view—the inviolability of contracts. Inasmuch as the States cannot coin, and the Federal Government alone can, and inasmuch as the States cannot make anything but gold and silver a tender in payment of debts, it follows that gold or silver coins, foreign or domestic, as regulated by Congress, constitute the only lawful money. This was evidently Mr. Webster's opinion in that able speech on the Specie Circular, which was cited at the bar, and in which he declared "*that gold and silver*, at rates fixed by Congress, constitute the legal standard of value in this country, and that neither Congress nor any State has authority to establish any other standard or to displace this." And still more emphatically: "Most *unquestionably* there is and there can be no legal tender in this country under the authority of this Government, or any other, but gold and silver. *This is a constitutional principle, perfectly plain, and of the very highest importance.* The States are expressly prohibited from making anything but gold and silver a tender in payment of debts; and although no such express prohibition is applied to Congress, yet as Congress has no power granted to it but to coin money and to regulate the value thereof, *it clearly has no power to substitute paper or anything else for coin as a tender.* The constitutional tender is the thing to be preserved, and it ought to be preserved *sacredly under all circumstances.*" (4 Webster's Works, 271, 280.) I must confess that upon a question of this magnitude—amid the conflict of opinion by which I am surrounded—my mind has rested with confidence and satisfaction upon this clear and decided conclusion of a great intellect. Mr. Webster's fame rests mainly an his eminence as a constitutional lawyer. The Constitution has been the study of his life, the subject of most of his professional and political efforts. He belonged to no school of strict construction, but on all occasions was found earnestly contending for the broadest charter to the Federal Government. The opinions he expressed in his seat in the Senate of the United States, under the sanction of his official oath, are entitled to be received as deliberate and well considered.

With Mr. Webster I regard these provisions of the Constitution upon the subject of contracts and tenders as "of the very highest importance," and "to be preserved sacredly under all circumstances." They rest upon sanctions, which ought to be considered as of the most inviolable solemnity, at all times and in all emergencies. The true strength of government—the best foundation on which can rest the confidence and affection of its people—is the security which it guaranties to property. This depends in this country upon those constitutional provisions which absolutely protect, under the Ægis of the courts of justice, alike the daily earnings of the poor and the accumulated savings of the rich man, not only from fraud and violence, but from the government itself, except in the form of open and equal taxation.

It has been strongly urged upon us that Congress has the power of debasing the coin, either in weight or fineness, without changing the denomination or legal value. What, it has been asked, is the difference between that and issuing paper money, even though that paper should be at the time depreciated below the value of the coin? I answer, that because Congress may possibly accomplish a certain end by constitutional means, it does not follow that the same object can be obtained by means which are not constitutional. Though, by the process of debasing the metallic standard, Congress may, perhaps, reduce all debts, public and private, fifty per cent., it does not follow that they can enact directly that the man who owes one hundred dollars to another shall be quit upon the tender of fifty. We apply no such principle to other cases. Because under a power a man may dispose of an estate by will, we do not hold that he can do the same in any other wap than that directed or prescribed.

But considering it merely as an argument of the intention of the framers of the Constitution, it appears to me equally inconclusive. There are very important differences between debasing the coin and issuing paper money, though their practical results may in some respects be similar. It may well have been intended to leave to Congress discretien as to the one, but to deny to either branch of the Government, State or Federal, any discretion as to the other.

1. The debasing of the coin as a financial measure for the purpose of discharging the public debt would be an open, gross, and palpable breach of faith, scarcely possible in the present age of the world. Changes, however, for the mere purpose of regulating the value of the currency, may be occasionally necessary. "Arbitrary governments," says Albert Gallatin, "have at various times, in order to defraud their creditors, debased the coin, whilst they preserved its denomination, and thus subverted the standard value, by which the payment of public and private debts, and the performance of contracts ought to have been regulated. This flagrant mode of violating public faith has been long proscribed by public opinion. Governments have, in modern times, substituted for the same purpose, issues of paper money, gradually increasing in amount and decreasing in value. It was to guard against these evils, that the provisions in the Constitution on that subject were introduced." (Considerations on the Currency, p. 72.)

It is true that the coin has been debased in our own times and country, but never with a view to defraud either public or private creditors. When the coinage of the United States was first regulated in 1792, a double standard, both of gold and silver, was adopted, and the proportion of these two metals fixed at one to fifteen, which was then about their true relation in the market. But though the relation between gold and silver is certainly more steady than that between any two other commodities, at least within short periods of time, yet it is not immutable. Accordingly, about the year 1821, a change was observed to have occurred. An ounce of gold, instead of being worth only fifteen ounces of silver, was really exchangeable for about sixteen ounces. Of course no one would pay a debt with sixteen ounces of silver, when he could do so with fifteen. The consequence was that the gold coins disappeared entirely from circulation, in obedience to the invariable law that the metal legally undervalued is always expelled. Silver became practically the only standard. The act of June 25, 1834, commonly called the gold bill, undertook to restore the true relation. To do this, either the gold coin must be debased or the silver enhanced. The latter course would have been fraught with more injustice and mischief than the former. Though the true policy may have been to let this alone, or to have established as the only legal what had practically become the actual standard, yet many pure and eminent statesmen were then and still are wedded to a different policy. Subsequently, by the act of January 18, 1837, the weight and standard of the coin of both metals were slightly changed with no design but to maintain, if possible, a currency of both gold and silver. Silver, however, being now undervalued, was banished from circulation as gold had been before. By the act of February 21, 1853, a much more considerable reduction was made in the weight of silver coins less than the dollar, but evidently only for the purpose of supplying a subsidiary currency, for small payments; for by the same act it was provided that the silver coins issued in conformity thereto should be legal tenders in payment of debts for all sums not exceeding five dollars. I have no doubt that all this tampering with the coin was unwise and unjust. Whatever may be the advantages of a double standard, they are too dearly purchased by the frequently recurring necessity for these changes. But I do not see that there was, in any of these instances, a criminal breach of public faith, or an intention to interfere with private contracts. In 1834, the public debt had been then recently liquidated in full, and at the period of none of these measures was anything to be gained by the Government from them, but rather the reverse.

II. There is another important difference between the two measures of debasing the coin and of issuing paper money. When an act is passed debasing the coin, all the mischief is done. On the day following, the prices of all markets adjusted themselves to the new standard. Commodities, real or personal, lands or chattels, are of exactly the same exchangeable value as before; the only difference being that their value is expressed in different figures. An ounce of gold will still buy the same number of bushels of wheat, whether it be coined into twenty pieces, called dollars, or forty pieces. True, debtors are richer at the expense of their creditors; but that gross injustice also is finished. Every man, creditor or debtor, capitalist or laborer, knows exactly where he stands. Not so with paper money. As to all existing contracts, the same, and even worse injustice is done, if the paper depreciates, than when the coin is debased. All equality is at an end. To-day a man pays at one discount, to-morrow he receives at another. *There is, in truth, no standard of value, whateeer.* The paper money varies like the mercury in the barometer, acted on by the superincumbent column of air, swayed to and fro by the tides of the atmosphere—now high, now low—now rarefied, now condensed. Thus, as confidence rises or falls, but more certainly as issues are increased or contracted, the value of every man's property—and the real price of his labor what he can procure for it of the necessaries and comforts of life, fluctuates from day to day. This was just what the men of the Revolution who met in the Federal Convention—who assembled in the State Conventions and and ratified the Constitution, had not merely heard with their ears, but seen with their own ey