

## Opinion of the Court.

1 Story on Const. § 880. The main purpose that Congress had in view was to provide a national currency based upon United States bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States, and be available in every part of the country. There was no purpose by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

This interpretation of the statute renders it unnecessary to consider whether, for the decision of the question before us, the journals of the two Houses of Congress can be referred to for the purpose of determining whether an act, duly attested by the official signatures of the President of the Senate, the Speaker of the House of Representatives and the President, and which is of record in the State Department as an act passed by Congress, originated in the one body or the other. And for the reasons stated, it is not necessary to inquire whether, in any view of the case, the defendant would have been personally liable for the tax collected by him pursuant to the act of Congress, and subsequently covered into the Treasury.

*Judgment affirmed.*

MR. JUSTICE WHITE concurs in the result.

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LUMBERMAN'S BANK v. HUSTON. Error to the Court of Appeals of the District of Columbia. No. 203. Argued and submitted April 21, 1897. Decided May 10, 1897.

MR. JUSTICE HARLAN delivered the opinion of the court.

The most favorable view of this case for the plaintiff in error is to regard it as presenting the same question that was determined

## Syllabus.

in *Twin City National Bank v. Nebeker*, just decided. For the reasons stated in the opinion in that case the judgment is

*Affirmed.*

MR. JUSTICE WHITE concurred in the result.

*Mr. John J. Crawford* for plaintiff in error.

*Mr. Solicitor General* for defendant in error.

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TINDAL *v.* WESLEY.

CERTIORARI TO THE COURT OF APPEALS FOR THE FOURTH CIRCUIT.

No. 231. Argued March 25, 1897. — Decided May 10, 1897.

This was a suit by citizens of New York against citizens of South Carolina to recover the possession of certain real property in that State, with damages for withholding possession. One of the defendants in his answer stated that he had no personal interest in the property, but as secretary of state of South Carolina, had custody of it, and was in possession only in that capacity. The other defendant stated that he was watching, guarding and taking care of the property under employment by his co-defendant. Both defendants disclaimed any personal interest in the property, and averred that the title and right of possession was in the State. *Held*, That the suit was not one against the State within the meaning of the Eleventh Amendment of the Constitution of the United States declaring that "the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of a foreign State." Whether a particular suit is one against the State within the meaning of the Constitution depends upon the same principles that determine whether a particular suit is one against the United States.

*United States v. Lee*, 106 U. S. 196, and other cases, examined and held to decide that a suit against individuals to recover the possession of real property is not a suit against the State simply because the defendant holding possession happens to be an officer of the State and asserts that he is lawfully in possession on its behalf. The Eleventh Amendment gives no immunity to officers or agents of a State in withholding the property of a citizen without authority of law; and when such officers or agents assert that they are in rightful possession, they must make that assertion good, upon its appearing, in a suit against them as individuals, that the legal title and right of possession is in the plaintiff.