
Argument for the plaintiff in error.

The result of such a principle, under the growing tendency to special and partial legislation, would be, to exempt the rich from taxation, and cast all the burden of the support of government, and the payment of its debts, on those who are too poor or too honest to purchase such immunity.

With as full respect for the authority of former decisions, as belongs, from teaching and habit, to judges trained in the common-law system of jurisprudence, we think that there may be questions touching the powers of legislative bodies, which can never be finally closed by the decisions of a court, and that the one we have here considered is of this character. We are strengthened, in this view of the subject, by the fact that a series of dissents, from this doctrine, by some of our predecessors, shows that it has never received the full assent of this court; and referring to those dissents for more elaborate defence of our views, we content ourselves with thus renewing the protest against a doctrine which we think must finally be abandoned.

BRONSON v. KIMPTON.

The cases of *Bronson v. Rodes* and *Buller v. Horwitz* (7 Wallace, 229 and 258) affirmed.

APPEAL from the Court of Appeals of New York.

Kimpton filed a bill against Bronson in one of the State courts of New York to compel satisfaction of a mortgage executed by him to Bronson on the ground that it had been paid. The mortgage was given to secure a bond for the payment of a certain sum in gold and silver coin, lawful money of the United States. The payment relied on was a tender of United States notes equal in nominal amount to the sum due on the bond and mortgage. The Supreme Court of New York held the tender sufficient, and adjudged satisfaction; and this judgment was affirmed by the Court of Appeals, and was now here for review.

Mr. J. A. Townsend (by whom the case of *Bronson v.*

Statement of the case.

*Rodes** had been elaborately and ably argued at the last term) now stated *for the plaintiff in error* that, as was obvious, there was no essential difference between this case and that, or *Butler v. Horwitz*,† which had been adjudged at the same time, and he relied upon these two decisions as conclusive of the case.

The CHIEF JUSTICE delivered the judgment of this court to the effect that the questions being no other than those already fully considered and determined in the cases referred to by the counsel, this case was necessarily

REVERSED, AND WOULD BE REMANDED FOR
FURTHER PROCEEDINGS.

BENNET v. FOWLER.

1. Whether a given invention or improvement shall be embraced in one, two, or more patents, is a matter about which some discretion must be left with the head of the Patent Office; it being often a nice and perplexing question, and one not capable of being prescribed for by a general rule.
2. Accordingly, in a case where two reissued patents, both related to the lifting and depositing a load of hay in a mow of a barn, or in a rick or shed, but, in one of them the lifter was somewhat differently constructed, so as to adapt it specially to the *stacking* of hay (which, as this court assumed, had doubtless led the office to divide the improvements, and issue separate patents, in a case where the improvements had been embraced in one in the original patent), the reissue in the twofold form was held proper.
3. Where the defendant proposes to maintain at the final hearing of a case in chancery, that his machine does not infringe the complainant's patent, proof of non-infringement should appear in the testimony.

APPEAL from the Circuit Court for the Northern District of Illinois.

Fowler filed a bill in that court to enjoin Bennet and others from infringing two reissued patents, No. 1870 and

* 7 Wallace, 229.

† Ib. 258.