

Statement of the case.

The defence set up by the executor was a tender of the amount due in United States notes.

To this it was answered that the executor had collected the debts due to the estate in coin, and was bound, as trustee, to pay the coin thus collected to the creditors; and, further, that the debt was contracted prior to the passage of the legal tender act, and could, therefore, be satisfied only in coin, according to the terms of the contract.

Judgment was rendered in favor of the petitioner, and the judgment was affirmed by the Supreme Court of the State. From that court it was brought by the other party here.

Mr. Carlisle, for the plaintiff in error; Mr. Wills, contra.

The CHIEF JUSTICE now gave the opinion of the court, to the effect that it was not necessary to examine the several questions presented by the record, for that the principles of the decision just rendered required the affirmation of the judgment of the Supreme Court, and that it was

AFFIRMED ACCORDINGLY.

MCVEIGH v. UNITED STATES.

A clerical mistake in a writ of error may be amended by the citation.

Mr. Assistant-Attorney Field, for the United States, moved to dismiss this case for imperfection in the writ, an exhibition of which showed that it was dated December 2d, 1868, and was returnable to "the 3d Monday of December next." But a production by Mr. Cushing, contra, of the citation, showed that it commanded the party to "be and appear at a Supreme Court of the United States on the 3d Monday of December instant, pursuant to a writ of error filed in the clerk's office, &c." And he argued that the citation was in fact the effective document, and the issuing of the writ but an antiquated and really useless ceremony, practised still but from deference to ancient form; that accordingly the writ might be amended by the citation. C. A. V.

MOTION DENIED.