

Opinion of the court.

must be, it is plainly erroneous, as it warranted the jury in finding for the plaintiff, whether the ingredient substituted for the one omitted was new or old, or whether the one substituted was or was not well known at the date of the plaintiff's patent as a proper substitute for the omitted ingredient.

JUDGMENT REVERSED AND A NEW VENIRE ORDERED.

RAILROAD COMPANY *v.* JOHNSON.

The constitutionality of the acts of Congress of February 25th, 1862, and of subsequent acts in addition thereto, making certain notes of the United States a legal tender in payment of debts, reaffirmed.

In error to the Supreme Court of Errors of Connecticut. Johnson sued the Norwich and Worcester Railroad Company on certain coupons for interest attached to bonds, made by the said company A. D. 1860. When the coupons fell due, the amount was tendered in the legal-tender notes of the United States, issued under the act of Congress of February 25th, 1862, and the several acts in addition thereto, and they were refused. The State court rendered judgment that this tender was not good, and that the plaintiff should receive the amount with interest in the gold and silver coin of the United States. This writ of error was brought to reverse that judgment.

Mr. J. Halsey, for the plaintiff in error. No opposing counsel.

Mr. Justice MILLER delivered the opinion of the court.

In accordance with the principles settled by this court in the cases of *Knox v. Lee*, and *Parker v. Davis*,* which were affirmed in *Dooley v. Smith*,† the tender was a good and valid one, and the judgment for coin is erroneous, and must be reversed.

* 12 Wallace, 457.

† 13 Id. 604.

Statement of the case.

It is, therefore, ordered that the judgment of the Supreme Court of Errors of Connecticut be, and the same is hereby, REVERSED, and the cause remanded to that court for further proceedings

IN CONFORMITY WITH THIS OPINION.

The CHIEF JUSTICE dissenting: I think it my duty to express my dissent from the judgment just announced, for the reasons stated in the opinion of the court in *Hepburn v. Griswold*,* and in the dissenting opinions in *Knox v. Lee*, and *Parker v. Davis*.

My brothers CLIFFORD and FIELD concur in this dissent.

PELHAM v. WAY.

When, under the act of July 17th, 1862, "to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," the libel and monition have been framed in such a way, and the marshal has served his process in such a way, that notwithstanding the completion of the proceeding and a sale in form, intended to divest the rebel of his property, the property has not, after all, been divested in law, and the rebel's rights remain uninjured, he cannot in an action against the marshal for a false return recover more than nominal damages.

ERROR to the Circuit Court of the United States for the District of Indiana.

An act of Congress, approved July 17th, 1862, and entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," among other things, provided, "that if any person within any State or Territory of the United States other than those named as aforesaid after the passage of this act, being engaged in armed rebellion against the government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warn-

* 8 Wallace, 603.