

Sec. 8—Powers of Congress

Cls. 5 and 6—Money

Clauses 5 and 6. The Congress shall have Power * * * To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures.

* * * To provide for the Punishment of counterfeiting the Securities and current Coin of the United States.

FISCAL AND MONETARY POWERS OF CONGRESS**Coinage, Weights, and Measures**

The power “to coin money” and “regulate the value thereof” has been broadly construed to authorize regulation of every phase of the subject of currency. Congress may charter banks and endow them with the right to issue circulating notes,¹³⁴⁷ and it may restrain the circulation of notes not issued under its own authority.¹³⁴⁸ To this end it may impose a prohibitive tax upon the circulation of the notes of state banks¹³⁴⁹ or of municipal corporations.¹³⁵⁰ It may require the surrender of gold coin and of gold certificates in exchange for other currency not redeemable in gold. A plaintiff who sought payment for the gold coin and certificates thus surrendered in an amount measured by the higher market value of gold was denied recovery on the ground that he had not proved that he would suffer any actual loss by being compelled to accept an equivalent amount of other currency.¹³⁵¹ Inasmuch as “every contract for the payment of money, simply, is necessarily subject to the constitutional power of the government over the currency, whatever that power may be, and the obligation of the parties is, therefore, assumed with reference to that power,”¹³⁵² the Supreme Court sustained the power of Congress to make Treasury notes legal tender in satisfaction of antecedent debts,¹³⁵³ and, many years later, to abrogate the clauses in private contracts calling for payment in gold coin, even though such contracts were executed before the legislation was passed.¹³⁵⁴ The power to coin money also imports authority to maintain such coinage as a medium of exchange at home, and to forbid its diversion to other uses by defacement, melting or exportation.¹³⁵⁵

¹³⁴⁷ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819).

¹³⁴⁸ *Veazie Bank v. Fenno*, 75 U.S. (8 Wall.) 533 (1869).

¹³⁴⁹ 75 U.S. at 548.

¹³⁵⁰ *National Bank v. United States*, 101 U.S. 1 (1880).

¹³⁵¹ *Nortz v. United States*, 249 U.S. 317 (1935).

¹³⁵² *Legal Tender Cases (Knox v. Lee)*, 79 U.S. (12 Wall.) 457, 549 (1871); *Juilliard v. Greenman*, 110 U.S. 421, 449 (1884).

¹³⁵³ *Legal Tender Cases (Knox v. Lee)*, 79 U.S. (12 Wall.) 457 (1871).

¹³⁵⁴ *Norman v. Baltimore & Ohio R.R.*, 294 U.S. 240 (1935).

¹³⁵⁵ *Ling Su Fan v. United States*, 218 U.S. 302 (1910).