providing that checks drawn on local banks should, at the option of the bank, be payable in exchange drafts, was held valid.[1911]

Bills of Attainder

Statutes passed after the Civil War with the intent and result of excluding persons who had aided the Confederacy from following certain callings, by the device of requiring them to take an oath that they had never given such aid, were held invalid as being bills of attainder, as well as *ex post facto* laws.[1912]

Other attempts to raise bill-of-attainder claims have been unsuccessful. A Court majority denied that a municipal ordinance that required all employees to execute oaths that they had never been affiliated with Communist or similar organizations, violated the clause, on the grounds that the ordinance merely provided standards of qualifications and eligibility for employment.[1913] A law that prohibited any person convicted of a felony and not subsequently pardoned from holding office in a waterfront union was not a bill of attainder because the "distinguishing feature of a bill of attainder is the substitution of a legislative for a judicial determination of guilt" and the prohibition "embodies no further implications of appellant's guilt than are contained in his 1920 judicial conviction." [1914]

Ex Post Facto Laws

Scope of the Provision.—The prohibition against state *ex post facto* laws, like the cognate restriction imposed on the Federal Government by § 9, relates only to penal and criminal legislation and not to civil laws that affect private rights adversely.[1915] Distinguishing between civil and penal laws was at the heart of the Court's decision in *Smith v. Doe* [1916] upholding application of Alaska's "Megan's Law" to sex offenders who were convicted before the law's en-

---

[1911] Farmers & Merchants Bank v. Federal Reserve Bank, 262 U.S. 649, 659 (1923).

[1912] Cummings v. Missouri, 71 U.S. (4 Wall.) 277, 323 (1867); Klinger v. Missouri, 80 U.S. (13 Wall.) 257 (1872); Pierce v. Carskadon, 83 U.S. (16 Wall.) 234, 239 (1873).

[1913] Garner v. Board of Pub. Works, 341 U.S. 716, 722–723 (1951). *Cf.* Konigsberg v. State Bar of California, 366 U.S. 36, 47 n.9 (1961).

[1914] De Veau v. Braisted, 363 U.S. 144, 160 (1960). Presumably, United States v. Brown, 381 U.S. 437 (1965), does not qualify this decision.

[1915] Calder v. Bull, 3 U.S. (3 Dall.) 386, 390 (1798); Watson v. Mercer, 33 U.S. (8 Pet.) 88, 110 (1834); Baltimore and Susquehanna R.R. v. Nesbit, 51 U.S. (10 How.) 395, 401 (1850); Carpenter v. Pennsylvania, 58 U.S. (17 How.) 456, 463 (1855); Loche v. New Orleans, 71 U.S. (4 Wall.) 172 (1867); Orr v. Gilman, 183 U.S. 278, 285 (1902); Kentucky Union Co. v. Kentucky, 219 U.S. 140 (1911). In Eastern Enterprises v. Apfel, 524 U.S. 498, 538 (1998) (concurring), Justice Thomas indicated a willingness to reconsider *Calder* to determine whether the clause should apply to civil legislation.

[1916] 538 U.S. 84 (2003).