

ACTS OF CONGRESS HELD UNCONSTITUTIONAL IN WHOLE OR IN PART BY THE SUPREME COURT OF THE UNITED STATES

1. Act of September 24, 1789 (1 Stat. 81, § 13, in part).

Provision that “[the Supreme Court] shall have power to issue . . . writs of mandamus, in cases warranted by the principles and usages of law, to any . . . persons holding office, under authority of the United States” as applied to the issue of mandamus to the Secretary of State requiring him to deliver to plaintiff a commission (duly signed by the President) as justice of the peace in the District of Columbia held an attempt to enlarge the original jurisdiction of the Supreme Court, fixed by Article III, § 2.

Marbury v. Madison, 5 U.S. (1 Cr.) 137 (1803).

2. Act of February 20, 1812 (2 Stat. 677).

Provisions establishing board of revision to annul titles conferred many years previously by governors of the Northwest Territory were held violative of the due process clause of the Fifth Amendment.

Reichart v. Felps, 73 U.S. (6 Wall.) 160 (1868).

3. Act of March 6, 1820 (3 Stat. 548, § 8, proviso).

The Missouri Compromise, prohibiting slavery within the Louisiana Territory north of 36°30' except Missouri, held not warranted as a regulation of Territory belonging to the United States under Article IV, § 3, clause 2 (and see Fifth Amendment).

Scott v. Sandford, 60 U.S. (19 How.) 393 (1857).

Concurring: Taney, C.J.

Concurring specially: Wayne, Nelson, Grier, Daniel, Campbell, Catron

Dissenting: McLean, Curtis

4. Act of February 25, 1862 (12 Stat. 345, § 1); July 11, 1862 (12 Stat. 532, § 1); March 3, 1863 (12 Stat. 711, § 3), each in part only.

“Legal tender clauses,” making noninterest-bearing United States notes legal tender in payment of “all debts, public and private,” so far as applied to debts contracted before passage of the act, held not within express or implied powers of Congress under Article I, § 8, and inconsistent with Article I, § 10, and Fifth Amendment.

Hepburn v. Griswold, 75 U.S. (8 Wall.) 603 (1870); overruled in *Knox v. Lee*

(*Legal Tender Cases*), 79 U.S. (12 Wall.) 457 (1871).

Concurring: Chase, C.J., Nelson, Clifford, Grier, Field

Dissenting: Miller, Swayne, Davis