

Honest Money Gold & Silver Report

Test Your Knowledge



About Money

Intro

The following is the next set of questions in our on-going discourse on money. It only takes a few minutes to read. C'mon in and test your knowledge of money. You may be surprised at some of the answers.

There are other answers available than those given. What follows is what I believe to be the most simple and direct choices. As with any subject, there are sure to be differences of opinion. 'Tis what makes the world go round. Other opinions are invited.

Questions

- What is money according to the Constitution?
- What is legal tender according to the Constitution?
- Are the States allowed to issue bills of credit according to the Constitution?

ANSWERS

- The Constitution states that Congress has the power to **coin** money. Money is thereby coin. Gold and silver coins are the only types of coin referred to in the Constitution.
- The Constitution mandates that the **no** State shall make any thing **but** gold and silver coin a tender in payments of debt.
- The Constitution **prohibits** the States from issuing bills of credit.

The Constitution Speaks

Article I, Section 8, Clause 5 of the Constitution states that Congress shall have the power:

“To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures”. ^[1]

“Article I, Section 10, Clause 1: No State shall... coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debt.” ^[2]

The Supreme Court

Here is a ruling (1827) from the highest court in the land on the issue of legal tender as mentioned in the U.S. Constitution (in part):

"It declares that 'no state shall coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts.' These prohibitions, associated with the powers granted to Congress 'to coin money, and to regulate the value thereof, and of foreign coin' most obviously constitute members of the same family, being upon the same subject and governed by the same policy.

The prohibition in the constitution to make anything but gold or silver coin a tender in payment of debts is express and universal. The framers of the constitution regarded it as an evil to be repelled without modification; they have, therefore, left nothing to be inferred or deduced from construction on this subject...

The next in order is, or 'make anything but gold and silver a tender in payment of debts;' this is founded upon the same principles of public and national policy as the prohibition to coin money and emit bills of

credit, and is so considered in the commentary on this clause in the number of the Federalist I have referred to. It is there said, the power to make anything but gold and silver a tender in payment of debts, is withdrawn from the states, on the same principles with that of issuing a paper currency. All these prohibitions, therefore, relate to powers of a public nature, and are general and universal in their application and inseparably connected with national policy...

The prohibition is not, that no state shall pass any law, but that even if a law does exist, the 'state shall not make anything but gold and silver coin a legal tender.' The language plainly imports that the prohibited tender shall not be made a legal tender, whether a law of the state exists or not. The whole subject of tender, except in gold and silver, is withdrawn from the states...

The second class of prohibited laws comprehends those whose operation consists in their action on individuals. These are laws which make anything but gold and silver coin a tender in payment of debts...

In all these cases, whether the thing prohibited be the exercise of mere political power, or legislative action on individuals, the prohibition is complete and total. There is no exception from it. Legislation of every description is comprehended within it." ^[3]

The Supreme Court Again

"They appertain rather to the execution of an important trust invested by the Constitution, and to the obligation to fulfill that trust on the part of the government, namely, the trust and the duty of creating and maintaining a uniform and pure metallic standard of value throughout the Union. The power of coining money and of regulating its value was delegated to Congress by the Constitution for the very purpose, as assigned by the framers of that instrument, of creating and preserving the uniformity and purity of such standard of value...

If the medium which the government was authorized to create and establish could immediately be expelled, and substituted by one it had neither created, estimated, nor authorized one possessing no intrinsic value then the power conferred by the Constitution would be useless wholly fruitless of every end it was designed to accomplish. Whatever functions Congress are, by the Constitution, authorized to perform, they are, when the public good requires it, bound to perform; and on this principle, having emitted a circulating medium, a standard of value indispensable for the purposes of the community, and for the

action of the government itself, they are accordingly authorized and bound in duty to prevent its debasement and expulsion, and the destruction of the general confidence and convenience, by the influx and substitution of a spurious coin in lieu of the constitutional currency.

Thus, from diverse pronouncements and opinions of the United States Supreme Court, a steady allegiance to the original and true intent of our founding fathers in reference to the monetary provisions of the U.S. Constitution can be discerned. In none of these various decisions is there any reference or allusion to any power of the States to enforce a tender in anything but gold and silver coin; further, there was no mention of any power in the federal government to permit, sanction or even compel the States to violate the constraint of Article 1, § 10, cl. 1 as such was an absolute and mandatory provision. Further, it was considered heresy to intimate any power in the federal government to issue any paper money. The adherence of the Supreme Court to the intent of the framers must surely have had a beneficial effect upon our nation.

Not only was the Supreme Court a guardian of the true intent of the framers during this period of time, the high courts of the various States of our Union were also as well. During the time prior to the Civil War, these state courts rendered opinions in many cases regarding the monetary provisions of the U.S. Constitution and all these decisions had one common theme: nothing but gold and silver coin could be a tender in payment of debts. Notwithstanding the imaginative schemes of men and governments calculated to find a way to circumvent Article 1, § 10, these state courts held fast and maintained their allegiance to the Constitution..."^[4]

[1] Constitution Article I, Section 8, Clause 5

[2] Constitution Article I, Section 10, Clause 1

[3] U.S. Supreme Court *Ogden v. Saunders*, 25 U.S. (12 Wheat) 213 (1827)

[4] *U.S. v. Marigold*, 50 U.S. (9 How.) 560, 567-568 (1850)