

Contract to pay dollars is a contract to pay coined silver

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A contract to pay dollars, is according to the Supreme Court of the United States, a contract to pay lawful money of the United States:

“It is quite clear that a contract to pay dollars, made between citizens of any State of the Union, while maintaining its constitutional relations with the National government, is a contract to pay **lawful money** of the United States.” Thorington v. Smith: 75 U.S. (Wall. 8) 1, at 12 (1869). **[Footnote 1]**

<http://books.google.com/books?id=-bwGAAAAYAAJ&pg=PA12#v=onepage&q&f=false>

Lawful money of the United States is:

“Lawful money [is] money declared to be legal tender in payment, by a law made in pursuance of the Constitution of the United States.” Bulter v. Horwitz: 74 U.S. (Wall. 7) 258, at 260 (1868).

<http://books.google.com/books?id=MfY7AAAIAAJ&pg=PA260#v=onepage&q&f=false>

Congress has declared the following as legal tender:

“United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public and private, public charges, taxes, duties, and dues.” 31 U.S.C. 5103

<http://www.law.cornell.edu/uscode/31/5103.html>

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC5103

Therefore, United States coins and currency are lawful money. But!

In *Juilliard v. Greenman*, the United States Supreme Court held that: 1) Congress had the power to make its obligations a legal tender in the payment of private debts,

and 2) that this power was an implied power under the Constitution based on the case of *McCulloch v. State of Maryland*. The Court determined that this implied power of making the obligations of the United States a legal tender in payment of private debts was a means (incident) to the power (expressly) given to Congress to borrow money on the credit of the United States.

However, the case of *McCulloch v. State of Maryland* was wrongly decided. **[Footnote 2]** The concept of implied powers does not exist in the Constitution. In fact, such a concept, if a doctrine would be in conflict with the doctrine that the Congress is a government of enumerated powers. **[Footnote 3]** As such, Congress does not have the power to make its obligations a legal tender in payment of debts, since the concept of implied powers does not exist in the Constitution. Since the power is not granted (expressly) to Congress, the power to make its obligations a legal tender in payment of private debts is not given to Congress under the Constitution of the United States of America.

Therefore, obligations of the United States (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are not lawful money.

Next!

In the Coinage Act of 1792, at Section 16, it states:

“And be it further enacted, That all the gold and silver coins which shall have been struck at, and issued from the said mint, shall be a lawful tender in all payments whatsoever, those of full weight according to the respective values herein before declared, and those of less than full weight at values proportional to their respective weights.”

http://nesara.org/files/coinage_act_1792.pdf

(Note: you may have to refresh or reload this webpage)

Though never determined to be an implied power or express power, this section making gold and silver coins of the United States a legal tender, if asserted to be an implied power fails as shown above, if asserted to be an express power then, such power does not appear in the Constitution of the United States of America.

Therefore, gold and silver coin (as well as other coins) of the United States are not lawful money.

Thus, the United States has no lawful money!

Which means that a contract to pay dollars, is a contract to pay dollars under the Constitution of the United States of America.

The question then is what is a dollar under the Constitution of the United States of America. The answer is a dollar under the Constitution is a Spanish Milled dollar coin, or its equivalent, in coin form, containing 371.25 grains of fine silver.

[\[Footnote 4\]](#)

Footnotes:

1. “A contract to pay a certain sum in gold and silver coin is, in substance and legal effect, a contract to deliver a certain weight of gold and silver of a certain fineness, to be ascertained by count.” Butler v. Horwitz: 74 U.S. 258, at 260 (1868).

<http://books.google.com/books?id=Mfy7AAAIAAJ&pg=PA260#v=onepage&q&f=false>

2. See my work “Blunders of the Supreme Court of the United States, Part 2”. In this work the case of *McCulloch v. State of Maryland* (17 U.S. [Wheat. 4] 316, 1819) is examined. The blunder made by the Supreme Court of the United States is that Congress under the ‘necessary and proper’ clause has implied powers. Reference is made to the Federalist Papers #33 (Alexander Hamilton) to show that Congress does not have implied powers under this provision, however, that the provision only authorizes Congress to pass necessary and proper laws for executing the powers granted to it under the Constitution:

“(3rd para) What is a power, but the ability or faculty of doing a thing? What is the ability to do a thing, but the power of employing the means necessary to its execution? What is a legislative power, but a power of making laws? What are the means to execute a legislative power but laws? What is the power of laying and collecting taxes, but a legislative power, or a power of making laws to lay and collect taxes? What are the proper means of executing such a power but necessary and proper laws? This simple train of inquiry furnishes us at once with a test by which to judge of the true nature of the clause It conducts us to this palpable truth, that a power to lay and collect taxes must be a power to pass all laws necessary and proper for the execution of that power; and what does [this] provision in question do more than declare the same truth, to wit, that the national legislature to whom the power of laying and collecting taxes had been previously given, might, in the execution of that power, pass all laws necessary and proper to carry it into effect? . .

. [T]he same process will lead to the same result, in relation to all other powers declared in the Constitution. ***And it is expressly to execute these powers that the sweeping clause, as it has been affectedly called, authorizes the national legislature to pass all necessary and proper laws.***

(2nd para) . . . [I]t may be affirmed with perfect confidence that the constitutional operation of the intended government would be precisely the same, if [the] clause was entirely obliterated as if [it] were repeated in every article. [It] is only declaratory of a truth which would have resulted by necessary and unavoidable implication from the very act of constituting a federal government and vesting it with certain specified powers.

(5th para) . . . Who is to judge of ***the necessity and propriety of the laws to be passed for executing the powers of the Union?*** I answer, first, that this question arises as well and as fully upon the simple grant of those powers as upon the declaratory clause; and I answer, in the second place, that the national government, like every other, must judge, in the first instance, of the proper exercise of its powers, and its constituents in the last.”

<http://www.foundingfathers.info/federalistpapers/fed33.htm>

This also explains why the word “expressly” is not used in the Tenth Amendment to the Constitution of the United States of America.

3. “. . . [T]he proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in the grant of powers, is in direct conflict with ***the doctrine that this is a government of enumerated powers.*** That this is such a government clearly appears from the Constitution, independently of the Amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the Tenth Amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination, the framers intended that no such assumption should ever find justification in the organic act, and that if, in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. It reads:

‘The powers not delegated to the United States by the Constitution, nor

prohibited by it to the states, are reserved to the states respectively, or to the people.'

The argument of counsel ignores the principal factor in this article, to-wit, 'the people.' Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it – 'we the people of the United States,' not the people of one State, but the people of all the States, and **Article X reserves to the people of all the States the powers not delegated to the United States.** The powers affecting the internal affairs of the States not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States. ***The people who adopted the Constitution knew that in the nature of things they could not foresee all the questions which might arise in the future, all the circumstances which might call for the exercise of further national powers than those granted to the United States, and, after making provision for an amendment to the Constitution by which any needed additional powers would be granted, they reserved to themselves all powers not so delegated.*** State of Kansas v. State of Colorado: 206 U.S. 46, 89 thru 90 (1907).

<http://books.google.com/books?id=AW4UAAAAYAAJ&pg=PA89#v=onepage&q=&f=false>

4. See my work "What is the dollar in the United States".

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