The BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 36: *The Legal Tender Cases* and Criminal Jurisdiction

The previous issue (Issue 35) of *The Beacon Spotlight* argued that the U. S. Supreme Court upheld paper currencies as legal tender in 1871 only under the exclusive legislation authority of Congress, for the District Seat (and "like Authority" forts, magazines, arsenals, dockyards and other needful buildings), under Article I, Section 8, Clause 17 of the U.S. Constitution.

Given the far-reaching ramifications of this revelation, which wholly undermines the claim that paper currencies are actually a forced legal tender throughout the Union, it would be desirable to find further proof to confirm this argument, especially if that proof came from the Supreme Court itself.

A good placed to begin a deeper dive into the 1871 *Legal Tender Cases* Supreme Court opinion is with Justice Strong's broad justification for upholding the power of Congress to make paper notes a legal tender for payment of debts, where he fantastically writes:

> "Concluding, then, that the provision which made Treasury notes a legal tender for the payment of all debts other than those expressly excepted *was not an inappropriate means for carrying into execution the legitimate powers of the government*, we proceed to inquire whether it was forbidden by the letter or spirit of the Constitution. It is not claimed that any express prohibition exists, but it is insisted that the spirit of the Constitution was violated by the enactment. Here those who assert the unconstitutionality of the acts mainly rest their argument. They claim that the clause which conferred upon Congress power 'to coin money, regulate the value thereof, and of foreign coin,' contains an implication that nothing but that which is the subject of coinage, nothing but the precious metals can ever be declared by law to be money, or to have the uses of money. *If by this is meant that because certain powers over the currency are expressly given to Congress, all other powers relating to the same subject are impliedly forbidden, we need only remark that such is not the manner in which the Constitution has always been construed.* On the contrary it has been ruled that power over a particular subject may be exercised as auxiliary to an express power, though there is another express power relating to the same subject, less comprehensive. *There an express power to punish a certain class of crimes (the only direct reference to criminal legislation contained in the Constitution), was not regarded as an objection to deducing authority to punish other crimes from another substantive and defined grant of power.* There are other decisions to the same effect. To assert, then, that the clause enabling Congress to coin money and regulate its value tacitly implies a denial of all other power over the currency of the nation, is an attempt to introduce a new rule of construction against the solemn

> decisions of this Court. So far from its containing a lurking prohibition, *many have thought it was intended to confer upon Congress that general power over the currency which has always been an acknowledged attribute of sovereignty in every other civilized nation than our own*, especially when considered in connection with the other clause which denies to the states the power to coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts. *We do not assert this now…*"[1]

There are a number of important points to consider in this partial paragraph (which citation here includes only the first 408 of the 1,192 words actually found in the single full paragraph).

The first point to examine begins with the last two sentences, where Justice Strong peculiarly commented:

> *"many have thought it was intended to confer upon Congress that general power over the currency which has always been an acknowledged attribute of sovereignty in every other civilized nation than our own*, especially when considered in connection with the other clause which denies to the states the power to coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts. *We do not assert this now…*"[2]

This last passage shows the level of desperation to which those who support constitutionally-unsupportable actions will stoop, even when those people are Supreme Court justices, and even when the comment will be preserved into perpetuity. After all, the Court does not even infer that any party to this case actually even argued this position; instead, the majority brought the comment in from the blue, to get readers starting to think along the lines they wanted to promote.

Given this remarkable statement (that "many" people have "thought" over the years that "it was intended" that members of Congress [should] have a "general power over the currency" because this "general power" has otherwise been "an acknowledged attribute of sovereignty"—in "every…civilized nation" "other… than our own"), no wonder Justice Strong ends the passage with the necessary disclaimer:

> "We do NOT assert this now."[3]

No kidding.

What is really interesting is that while the Court did not here assert that members of Congress have a general power over the currency, yet their final opinion nevertheless concluded that Congress could emit a legal tender paper currency.

And, from the previous issue of *The Beacon Spotlight*, remember that *The Legal Tender Cases* Court also expressly admitted that they were also not supporting the emission of legal tender paper currency by basing it upon the enumerated power of Congress to coin money and regulate its value, under Article I, Section 8, Clause 5, where the justices said:

> "We do not, however, rest our assertion of the power of Congress to enact legal tender laws upon this grant."[4]

So, *The Legal Tender Cases* Court which ruled in favor of paper currency, did not base this ability upon members of Congress having a general power over the currency, nor upon the enumerated power to coin money or regulate its value.

What, pray tell, did the Court actually rely upon, then, to support this power which three other Supreme Court cases earlier denied to Congress?

That is certainly a fair question.

And, the answer is that the Court looked to another enumerated clause of Congress, and found it there.

But, the particular clause under which they found this power was not one of the ordinary clauses of the Constitution, which speak to the powers of Congress that members may directly exercise throughout the Union. Instead, the particular clause under which the

1. *The Legal Tender Cases*, 79 U.S. 457 @ 544-545 (1871). Italics added.

2. *Ibid.*, Pg. 545. Italics added.

3. *Ibid.* Capitalization emphasis added.

4. *Ibid.* Pg. 547.

Court found this otherwise non-described but otherwise allowed power details the highly-unusual exception to all the normal rules of the Constitution.

After all, the exception to all the normal rules is itself one of the listed rules of the ratified Constitution (so actions under this clause cannot be [facially] "unconstitutional," even as certain circumstances are supposed to apply [i.e., limited to exclusive legislation lands]).

And, the only clause of the U.S. Constitution capable of supporting otherwise insupportable powers is Article I, Section 8, Clause 17, for the District Seat, and other exclusive legislation lands, where members of Congress may do anything and everything within their inherent discretion, except those precious few things actually and expressly prohibited them.

The Court's misleading attempt to confuse Americans is why court opinions are so convoluted and difficult to comprehend—because the scoundrels intentionally twist matters to imply one thing while legally stating the opposite.

In the end, the Court's support for all federal action beyond the spirit of the Constitution is so fragile, that justices must use devious means to hide their Constitution-bypass mechanism from the bright light of day, for what can be understood may be accurately diagnosed and then fully cured.

That is because no member of Congress, no American President, and no Supreme Court justice—or all of them united together—may ever change the Constitution, or the allowed federal powers, that may be directly exercised throughout the Union.

Only ratified amendments can do that, and only States ratify amendments—never federal servants.

Thus, EVERYTHING that has been maliciously done by federal servants in apparent excess of the spirit of the Constitution may be permanently revoked, by exposing the devilish means of constitutional bypass and then ratifying an amendment to finally *contain* all exclusive legislation action to exclusive legislation lands (or by *repealing* exclusive legislation powers, altogether).

230 years of wayward federal action imposed by federal servants may thus be wiped away clean, permanently, except as new amendments may be proposed and ratified (which amendment process was never tried, precisely because scandalous attempts cannot withstand the open and careful scrutiny required of constitutional amendments).

Again, NOTHING surreptitiously imposed upon Americans since 1789 by members of Congress, American Presidents and their bureaucratic minions, or Supreme Court justices, that is at odds with the spirit of the Constitution by using the strictest letter of two clauses against the remainder, can withstand full exposure and the ramifications of what follows next.

Supreme Court justices may only indirectly extend the exclusive legislation powers of D.C., *beyond D.C.*, by holding that even Clause 17 is *part* of "This Constitution" which Article VI, Clause 2 declares is "the supreme Law of the Land," that binds the States through their judges, and then obfuscating everything within their path.

Yes, Article I, Section 8, Clause 17 is *part* of "This Constitution" which Article VI declares to be the supreme Law of the Land, but that doesn't mean that D.C.-based exclusive legislation may directly bind the States, beyond *how* and *where* the whole Constitution allows.

No action of any State ever binds any other State. Well, neither should the exclusive legislation powers of Congress bind the States, which powers are essentially State-like actions capable of being enacted by Congress for the District of Columbia.

Exclusive legislation lands are the only place where ONE government handles all matters. Everywhere else, governing power is DIVIDED into enumerated federal powers and reserved State powers.

Only on exclusive legislation properties is all governing power UNITED in Congress and the U.S. Government.

While the remainder of clauses in the Constitution (beyond Art. I, Sect. 8, Cl. 17) always bind all the States—because all the States earlier ratified the Constitution which meant that they all individually agreed to be bound according to the Constitution's terms—Clause 17-exclusive legislation laws primarily bind the States against their will in cases where U.S. marshals are chasing suspects who allegedly violated

exclusive legislation laws while on exclusive legislation lands, who later flee to one of the States.

In other words, marshals still don't have to formally extradite suspects who allegedly broke exclusive legislation laws in D.C. but then fled the District.[5]

The next point to examine of Justice Strong's mega-paragraph, was his first-cited comment, which showed his "standard" for allowable federal action.

Spectacularly, Justice Strong argued that upholding paper currency as legal tender:

> "was *not* an *inappropriate* means for carrying into execution the legitimate powers of the government."[6]

How's that for his false extension of exclusive legislative powers beyond exclusive legislation boundaries?

Recall the actual standard for allowable action directly implemented throughout the whole Union, enumerated by Article I, Section 8, Clause 18 of the U.S. Constitution—only "necessary and proper" means may be used to directly implement the listed federal powers throughout the Union.

Since the Court's "standard" of doing things that are "not…inappropriate" fails to meet the true federal standard for allowable action that may be directly implemented throughout the Union, one knows that whatever *isn't inappropriate* may only be implemented under the exclusive legislation power of Congress, for D.C. and other exclusive legislation lands.

There is no permanently-allowed third option, even as the scoundrels have succeeded to date, of using the latter "not...inappropriate" means, to do as they please, under their exclusive power for D.C., but indirectly extend these exclusive legislation powers throughout the Union, because no one is paying adequate attention, to end the charade.

Well, federal servants do not have magical powers, and neither are they omnipotent wizards or all-powerful genies. In actuality, they are but frauds and cheats—scoundrels vying for unlimited federal power, to feather their own nests and bask in the glory of essentially limitless power, thinking they are gods.

Thankfully, there is only one God, and He does not need the help of paper tyrants to rule artificially and oppressively. Instead, God gives man freedom, unlike these self-made false gods who seek to enslave and impoverish.

The interim third option—of using D.C.-based exclusive legislation powers beyond exclusive legislation boundaries—is available only in the short-term, only as long as freedom-loving Americans remain in the dark, kept from learning how federal servants ever became political masters, and until they start responding like free men and women.

To cast off federal tyranny, We The People must discover how the scoundrels bypass normal constitutional parameters and begin working toward a new amendment, to permanently stop that bypass mechanism, in its devilish tracks.

In the meantime, each individual person confronted by inappropriate federal action must learn to fight back against improperly-extended exclusive legislation actions indirectly implemented beyond exclusive legislation boundaries.

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5. Not answered here is whether people who [inadvertently] "volunteer" to be "subject" to the exclusive legislation jurisdiction of D.C., while yet remaining in the States, can be similarly gathered up federally, without ever breaking D.C.-based congressional law, in D.C., or in other exclusive legislation lands.

This topic is quite difficult to accurately answer in the negative. Note that exclusive legislation matters may well extend to all citizen-subjects, wherever these persons are located.

Question, does calling oneself a "citizen of the United States" subject oneself to D.C.-based exclusive legislation, anytime some law or code defines "United States" as being (or including [only]) "the District of Columbia?"

Could it actually be so simple as calling oneself a "U.S. Citizen," while Congress defines "U.S." in some exclusive legislation law as "D.C."; thus, essentially enslaving oneself to all D.C.-based congressional law, no matter if one is otherwise in one of the States?

Realize that courts must have both "subject matter" jurisdiction and jurisdiction "over the person" to hear a case and failing either means the court cannot hear it.

6. *The Legal Tender Cases*, 79 U.S. 457 @ 544 (1871). Italics added.

Since Congress may only use their totalitarian means to implement their desired whims in the District Seat and other exclusive legislation properties, one knows that *The Legal Tender Cases* could authorize legal tender paper currencies only in the District of Columbia, under Art. I, Sect. 8, Cl. 17 of the U.S. Constitution.

Thankfully, however, further proof is yet available from the opinion itself.

The next passage of the long citation to examine is:

> "we proceed to inquire whether it was *forbidden* by the letter or spirit of the Constitution. It is not claimed that any *express prohibition* exists, but it is insisted that the spirit of the Constitution was violated by the enactment. Here those who assert the *unconstitutionality* of the acts mainly rest their argument. They claim that the clause which conferred upon Congress power 'to coin money, regulate the value thereof, and of foreign coin,' contains an implication that nothing but that which is the subject of coinage, nothing but the precious metals can ever be declared by law to be money, or to have the uses of money…"[7]

The Court purposefully noted that no *express* prohibitions are found in the Constitution's enumerated words, that overtly and directly prohibit members of Congress from emitting paper currency and declaring it a legal tender, like the Constitution specifically lists, in Art. I, Sect. 10, Cl. 1, against the several States.

By this true statement, the Court is saying that since only "States" are specifically prohibited from emitting bills of credit and calling them a tender, then if the justices find an alternate means to do so, then the Constitution won't otherwise directly stop Congress from emitting legal tender paper currencies.

And, strictly speaking, members of Congress may for the District Seat do anything and everything that is not expressly prohibited. Thus, under *this* enumerated power, members of Congress may indeed emit paper currencies and in D.C. declare them a tender. After all, the District Seat is NOT a "State."

However, that exception to all the normal rules in no way means that members of Congress may also emit legal tender paper currencies directly for the whole Union (which is why three earlier Supreme Court opinions all denied this power to Congress).

Remember, for the Republic, under the Constitution, members of Congress may only implement named powers using necessary and proper means (with all else prohibited). Since emitting paper currencies is not a named end, nor a necessary and proper means for implementing a named power (like the coining of money or regulating its value [or even the borrowing of money {or otherwise}]), then it cannot be done under the normal clauses of the Constitution (which is why the Supreme Court three times agreed with this conclusion).

The last point to examine from Justice Strong's long passage provides the best confirmation as to how the Court ultimately upheld legal tender paper currencies, as he wrote:

> *"If by this is meant that because certain powers over the currency are expressly given to Congress, all other powers relating to the same subject are impliedly forbidden, we need only remark that such is not the manner in which the Constitution has always been construed*. On the contrary it has been ruled that power over a particular subject may be exercised as auxiliary to an express power, though there is another express power relating to the same subject, less comprehensive. *There an express power to punish a certain class of crimes (the only direct reference to criminal legislation contained in the Constitution), was not regarded as an objection to deducing authority to punish other crimes from another substantive and defined grant of power."*[8]

Strong's comment that the Supreme Court has not always "construed" the Constitution so as to reserve to the States all those powers and actions in excess of those delegated to Congress, in effect says, "We've done this before", so "we can do it again."

7. *Ibid.* Italics added.

8. *Ibid.* Italics added.

Justice Strong seeks by this passage to prove his point, by twisting words beyond their normal comprehension, as he brings up the punishment of a certain class of crimes beyond those crimes which are directly referenced in the Constitution (i.e., beyond treason, counterfeiting, piracy and impeachment).

Although the facts of *The Legal Tender Cases* had nothing to do with any alleged crime, Justice Strong brings up the express criminal jurisdiction of Congress, as an example to show how the Court had before allowed Congress to exercise an "auxiliary" power that was otherwise beyond Congress' enumerated powers, while noting that no one ever alleged that this earlier action had been improper.

In this citation, Justice Strong points to the Supreme Court earlier upholding the punishment of "other crimes" beyond the four named crimes that were "directly referenced" in the U.S. Constitution, by looking to "another substantive and defined grant of power" in the Constitution.

And, curiously, this reference to federal criminal authority was not Justice Strong's first or only reference, either. He had also earlier stated, after first mentioning the four federal crimes expressly listed in the Constitution—treason, counterfeiting, piracy and impeachment—saying:

> "This is the extent of power to punish crime expressly conferred. It might be argued that the expression of these limited powers implies an exclusion of all other subjects of criminal legislation. Such is the argument in the present cases. It is said because Congress is authorized to coin money and regulate its value it cannot declare anything other than gold and silver to be money and make it a legal tender. Yet Congress, by the act of April 30, 1790, entitled "*An act more effectually to provide for the punishment of certain crimes against the United States,"* and the supplementary act of March 3d, 1825, defined and provided for the punishment of a large class of crimes other than those mentioned in the Constitution, and some of the punishments prescribed are manifestly not in aid of any single substantive power. No one doubts that this was rightfully done, and the power thus exercised has been affirmed by this court in *United States v. Marigold*."[9]

It should be stated again that the matter before Court was NOT a criminal matter. No defendant was being tried for any crime and no crimes were anywhere even alleged. *The Legal Tender Cases* merely involved acknowledged debts being paid in legal tender notes, instead of coin.

Criminal Jurisdiction

Before exploring *The Legal Tender Cases'* foray into the express federal criminal authority of Congress further, one must know what the U.S. Constitution says about crimes. The expressly-mentioned criminal authority of Congress listed within the U.S. Constitution include:

1. Treason;[10]

2. Counterfeiting the Securities and current Coin of the United States;[11]

3. Piracies and Felonies committed on the high Seas and Offences against the Law of Nations;[12] and

4. *Impeachment.[13]

The four federal crimes explicitly enumerated within the U.S. Constitution—treason, counterfeiting, piracy and impeachments—are the four federal crimes that are federal crimes, no matter where they are committed, even if they otherwise take place within the jurisdiction of a State.

For example, if a criminal counterfeiter performed his illicit trade within the boundaries of a State, it would still be a federal crime, because the federal jurisdiction for this crime is expressly conferred in and by the U.S. Constitution.

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9. *Ibid.*, 457 @ 535 – 536 (1871). Underscore added.

10. U.S. Constitution: Article III, Section 3, Clauses 1 & 2.

11. U.S. Constitution: Article I, Section 8, Clause 6.

12. U.S. Constitution: Article I, Section 8, Clause 10.

13. U.S. Constitution: Article III, Section 2, Clause 3; Article II, Section 4; Article I, Section 2, Clause 5; and Article I, Section 3, Clauses 6 and 7.

13. (cont'd):

"Impeachment" here needs an asterisk besides it, since it only allows for political punishment (removal from office and possible disqualification from holding future offices), not judicial.

Art. III, Sect. 2, Clause 3 acknowledges that Impeachments are, or at least may be, criminal in nature, by saying that "The Trial of all Crimes, *except in Cases of Impeachment,* shall be by Jury." By expressly mentioning an exception for impeachments in the trial of "all crimes," this exception directly admits impeachment is, or at least may be, criminal in nature.

Article II, Section 4 also says that "The President, Vice President and all civil officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors. Impeachment for treason and bribery, and other high crimes, involve political punishment for serious criminal behavior while misdemeanors involve less serious crimes (which may still lead to impeachment).

Article I, Section 2, Clause 5 gives the power of impeachment to the House of Representatives, which is the power to charge a federal officer, similar to a criminal "indictment." An officer impeached by the House is not punished unless or until convicted in the Senate—being impeached simply means someone has been charged and that, by itself, does not also mean that they were also convicted.

Article I, Section 3 also has two clauses discussing impeachments. Clause 6 gives the Senate the sole power to try all impeachments, as a high court, to determine the political matter with finality (without review elsewhere).

A federal officer (please note that members of Congress are not "officers" of the United States and thus they cannot be impeached [they may only be "expelled" by their own House, under Art. I, Sect. 5, Cl. 2]) who is impeached by the House but not convicted by the Senate suffers no punishment other than possible humiliation for being charged.

Clause 7 limits punishment to removal from Office, and possible disqualification to hold future political offices under the United States (of the executive or judicial branches).

Impeachment and conviction for criminal offenses does not foreclose separate judicial indictment, trial, judgement, and punishment within the judicial court system, with punishment there including fines and/or imprisonment and possibly, death.

Federal officers pursuing the alleged criminal could pursue him throughout the Union of States without needing to resort to extradition and federal courts would hear his case after he was caught and indicted.

Being found guilty, the counterfeiter would be punished in accordance with federal law within the federal penal system.

However, with federal jurisdiction properly limited, if other crimes occur outside of exclusive federal lands and within the boundaries of a State, since the U.S. Constitution doesn't federalize them, means that these crimes would otherwise normally be reserved unto the States, as a State crime.

Realize that although the express federal criminal authority as found listed in the U.S. Constitution reaches only to treason, counterfeiting, piracy, and impeachment, Title 18 of the United States Code—the federal criminal code—lists many scores of federal crimes, such as conspiracy, extortion, fraud, and racketeering. Reliable parties estimate 4,500 separate federal crimes are found throughout the federal statutes, not counting some 300,000 regulations.[14]

So, what gives?

After all, at the very foundation of our Republic rests on the Delegation of Powers Doctrine, which declares that all governing powers beyond those delegated are reserved to the parties which otherwise did the original delegating (the States, in this instance).

The Tenth Amendment expressly restates this bedrock principle of the Republic, that to the States (and the people) are reserved all powers not delegated to Congress and the U.S. Government (except those things which the U.S. Constitution expressly prohibits the States).

All crimes beyond those authorized by the U.S. Constitution are thereby reserved to the States under this doctrine. *There may never be more federal crimes than the Constitution authorizes.*

14. https://www.heritage.org/crime-and-justice/commentary/count-the-crimes-the-federal-law-books-then-cut-them

But, notice the huge difference in terminology herein purposefully used, between the Constitution expressly "naming" federal crimes (thereby directly empowering federal authorities to prescribe for their punishment), versus the Constitution otherwise "authorizing" federal punishment of crimes (under certain conditions).

And, within this pointed distinction in terminology lies the remainder of federal crimes yet authorized by the U.S. Constitution, even though they are not expressly named therein, and even though this large class of crimes is never actually spelled out in word form as "criminal" authority by the Constitution.

The remainder of federal crimes—all those federal crimes beyond treason, counterfeiting, piracy and impeachment—therefore have two asterisks next to them, because they involve the same common root, that makes them federal.[15]

When discussions of seemingly-irrelevant topics surface in a court ruling, especially repeatedly, realize that these odd occurrences may actually provide important clues to the careful reader, that he or she has stumbled upon something of profound importance.

Realize that Justice Strong points to the express federal criminal authority in *The Legal Tender Cases* opinion, in several spots, as and where he writes:

1. The "express power" of Congress to punish "a certain class of crimes" that were "the only *direct reference* to criminal legislation contained in the Constitution…" [16] (speaking <u>to</u> treason, counterfeiting, piracy, and impeachment);

2. He also writes that the 1790 and 1825 Crime Acts "defined and provided for the punishment of a large class of crimes other than those *mentioned* in the Constitution,"[17] (speaking to crimes *other than* treason, counterfeiting, piracy, and impeachment); and

3. He specifically cited, in a third instance, criminal jurisdiction which was not "*expressly conferred"* in the Constitution[18] (again, speaking to crimes *beyond* treason, counterfeiting, piracy, and impeachment).

The only "large class of crimes" not "mentioned" and not "directly referenced" in the Constitution and where the criminal jurisdiction was not "expressly conferred" in the Constitution in named fashion—but which were otherwise found and discussed within the 1790 and 1825 Crime Acts, were those crimes occurring "within any fort, arsenal, dock-yard, magazine, or other place or district of country, *under the sole and exclusive jurisdiction of the United States,"* or other words used to reach that same effect.[19]

In words few people would notice, in phrases few citizens would readily understand, these perhaps seemingly-irrelevant references made by Associate Justice William Strong to federal criminal authority, was his deft and subtle references *to the actual legal authority under which The Legal Tender Cases Court was now upholding the power of Congress to emit a legal tender paper currency!*

Congress could punish murder or manslaughter in the exclusive legislative jurisdiction of the United States without express criminal authority for the crimes of "murder" or "manslaughter" being "mentioned," "directly referenced" or "expressly conferred" within the U.S. Constitution, *because the Constitution otherwise directly declares that members of Congress have the express power to exercise exclusive legislation "in* ***all Cases*** *whatsoever",* <u>**which "all Cases" include all cases both civil and criminal in nature!**</u>

Murder and manslaughter are crimes otherwise reserved to the States by the Tenth Amendment, but

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15. The trick to understand *The Legal Tender Cases* is to pay strict attention to what is merely being inferred versus what is being legally stated.

16. T*he Legal Tender Cases*, 79 U.S. 457 @ 545 (1871).

17. *Ibid.*, Pg 536.

18. *Ibid.*, Pp 535-536.

19. 1790, April 30, Section 3. (1 Stat. 112 @ 113). Italics added.

See also: Monetary Laws, Volume II, Appendix K, Page 590. 2012. www.PatriotCorps.org.

1825, March 3 (4 Stat. 115).

See also: Monetary Laws, Volume II, Appendix K, Page 597. 2012. www.PatriotCorps.org.

the Tenth Amendment cannot apply in the District of Columbia, because no State of the Union there has any reserved State powers (by constitutional imperative—for Congress to be able to exercise "exclusive" legislation, "in all Cases whatsoever"]).

In D.C., all governing powers are UNITED in Congress—they are NOT shared with any State of the Union. Indeed, in 1791, Maryland ceded all of its power to govern its portion of land for D.C. to Congress, when Maryland ceded its land, (again, to conform to the constitutional requirement of Clause 17 that members of Congress be able to exercise "exclusive" legislation "in all Cases whatsoever").

Since Maryland cannot enact legislation for the punishment for murder or manslaughter in its ceded lands now belonging to and governed exclusively by Congress and the U.S. Government, then it is now up to Congress to enact such legislation.

While it is true that "all Cases" does not expressly "mention" a named *criminal* jurisdiction, nor does it "directly reference" *criminal* authority, and neither does it "expressly confer" punishment for the *named crime of murder,* for example, nevertheless this phrase ("in all Cases whatsoever") found in the U.S. Constitution authorizes a criminal authority for the "sole and exclusive jurisdiction of the United States."

Members of Congress were able to enact the Legal Tender Act in 1862 in the same manner as members were able to enact punishment for a large class of Crimes as found in the Crime Acts of 1790 and 1825, even as that class of crimes were not overtly mentioned, directly referenced, or expressly conferred in the Constitution—which powers were ultimately and appropriately found *under Article I, Section 8, Clause 17!*

The 1790 and 1825 federal Crime Acts explicitly followed the strict constitutional outline, of defining and providing punishment for the enumerated federal crimes (treason, counterfeiting, and piracy[20]), *while also listing a large class of crimes not overtly mentioned in the Constitution.*

Besides discussing the federal crimes of treason, piracy and counterfeiting,[20] the April 30, 1790 Crime Act also discussed a large class of crimes, such as those found in Section 3, which stated (with italics added):

> "That if any person or persons shall, w*ithin any fort, arsenal, dock-yard, magazine, or in any other place or district of the country, under the sole and exclusive jurisdiction of the United States*, commit the crime of wilful murder, such person or persons on being thereof convicted shall suffer death."[21]

Section 7 of the 1790 Crime Act similarly stated (italics added):

> "That if any person or persons shall within any fort, arsenal, dock-yard, magazine, or other place or district of country, *under the sole and exclusive jurisdiction of the United States,* shall commit the crime of manslaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars."[22]

On March 3, 1825, Congress enacted another Crime Act, which followed the same principles and covered the crimes of treason, counterfeiting, piracy and again listed certain crimes within the exclusive legislative jurisdiction for the seat of government and forts, magazines, arsenals, dock-yards, other needful buildings; areas under the sole and exclusive jurisdiction of the United States.[23]

Again, on all exclusive legislation lands, all governing powers are UNITED in Congress, not shared with any State of the Union.

Thus, no State may ever exercise a criminal jurisdiction over exclusive legislation federal lands.

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20. Neither the 1790 or 1825 Crime Acts mentioned nor discussed impeachment.

21. 1790, April 30; Chapter 9, Section 3. (1 Stat. 112 @ 113)

See also: Monetary Laws, Volume II, Appendix K, Page 590. 2012. www.PatriotCorps.org.

22. 1790, April 30; Chapter 9, Section 7. (1 Stat. 112 @ 113)

See also: Monetary Laws, Volume II, Appendix K, Page 591. 2012. www.PatriotCorps.org.

23. 1825, March 3; Chapter 65. (4 Stat. 115).

See also: Monetary Laws, Volume II, Appendix K, Page 597. 2012. www.PatriotCorps.org.

Since murder, robbery and other crimes cannot be ignored in D.C. or on other exclusive legislation lands, *someone* must prescribe laws for their punishment. And, the Constitution vests that authority in Congress, exclusively.

It is fully appropriate that on all exclusive legislation lands, that members of Congress enact criminal law on topics where State legislatures elsewhere enact them. This action follows the spirit of the Constitution and violates no principles of it.

Following the same logic of the 1790 and 1825 Crime Acts—where members of Congress openly prescribed the criminal punishment for otherwise State-like crimes occurring on exclusive legislation lands that were outside the jurisdiction of any State—the 1871 Court allowed Congress to emit bills of credit and there call them a tender, under members' exclusive legislation authority.

Just as earlier courts could uphold the federal punishment of crimes beyond those crimes expressly mentioned and directly referenced in the U.S. Constitution, the 1871 Court could uphold the congressional enactment of legal tender paper currencies, under the exclusive legislation authority for the District Seat, which nowhere faced similar prohibitions such as those found with "States" or similar restrictions as federal actions directly implemented throughout the Union.[24]

It is patently obvious the 1790 and 1825 Crime Acts actually followed the proper jurisdictional principles of the Constitution, *properly separating between the federal and State government jurisdictions*, and thus neither Crime Act caused any constitutional infirmity, which is why the 1871 Court could say, of the earlier Acts, "No one doubts that this was rightfully done."

While the 1790 and 1825 Crime Acts openly followed the true authority for the Union and the true authority for the District Seat—to everywhere enact law according to its true allowances—the 1862 Legal Tender congressional Act (or, at least the 1871 *Legal Tender Cases* Court) explicitly sought to exploit the fundamental differences between the two separate legal jurisdictions, to get within the one (the Union), that which was only allowed within the other (D.C., et al).

The 1871 *Legal Tender Cases* opinion was a masterpiece of deception, stopping just short of overt fraud, because the justices never went so far as to formally make an unsupportable claim, but they certainly implied otherwise and then muddled everything up, intentionally.

Paper currencies may only be emitted and made a legal tender under the exclusive legislation power of Congress under Article I, Section 8, Clause 17 of the U.S. Constitution, in and for the District of Columbia and exclusive legislation forts, magazines, arsenals, dockyards and other needful buildings.

Americans have been robbed blind, by clever and deceitful men and women who use the highly-unusual exception to all the normal rules of the Constitution, to get indirectly what they may not ever get directly.

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24. Advocates for omnipotent government will undoubtedly argue otherwise, supporting their point by showing that *U.S. v. Marigold* dealt with counterfeit coins brought into the U.S. and fraudulently passed on to others (and thus had nothing to do with the exclusive legislative jurisdiction).

While their take on *Marigold* is accurate, it is beside the point. It is noteworthy to realize that the *Marigold* court itself only referenced the Act of March 3, 1825.

The 1790 Crime Act did not deal with counterfeit coins (which counterfeiting is a crime mentioned in the Constitution), as the first coinage Act wasn't even enacted until 1792.

It was actually Justice Strong who so cleverly sought to hide the basis for his opinion in plain sight by intermixing several points; but his opinion very clearly points to both the 1825 and 1790 Crime Acts. In both of those Acts, the only "large class of crimes other than those mentioned in the Constitution" dealt with the exclusive legislative jurisdiction of Congress.

FOUNDATION FOR Liberty

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by Matt Erickson
October 5, 2022