IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

GORDON LEITCH, Relator, vs. BILL BRADBURY, Defendant.	Case No. 06C 11178 MEMORANDUM IN SUPPORT OF AMENDED PETITION FOR PEREMPTORY WRIT OF MANDAMUS and IN OPPOSITION TO DEFENDANT'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S CLAIM FOR RELIEF

Background

This is a mandamus proceeding.

In mandamus, the court is empowered to require the defendant, a government official, to perform a duty required by law. ORS 34.110. Candidates for office have no duty to remove their names from a ballot. Control of the ballot is in the hands of the Secretary of State. ORS 246.110, 249.035(1), 254.005(3)(a), 254.076, and 254.085(1). The Secretary of State is the only official to whom a writ of mandamus - concerning who should not be included on a gubernatorial ballot - can be directed. While the candidates for governor can certainly seek leave to intervene, they are not necessary parties to a mandamus action. Copies of the Amended Petition for Peremptory Writ of Mandamus were mailed to all candidates for governor on March 8, 2006[1].

On March 8, 2006 relator prepared and delivered a signed original Amended Petition for

[1] Copies were mailed to the candidates' campaign addresses as shown on defendant's web site for candidates for the 2006 primary election.

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

Peremptory Writ of Mandamus to a process server for delivery to the court. On that same day, relator also delivered a true copy of said Amended Petition for Peremptory Writ of Mandamus to the same process server for service upon the defendant.

The process server misunderstood its instructions regarding delivery of the Amended Petition for Peremptory Writ of Mandamus. It delivered either an original or true copy of the Amended Petition for Peremptory Writ of Mandamus on defendant on or about March 9, 2006. It delivered signed originals of the Amended Petition for Peremptory Writ of Mandamus to the court and to Judge Rhoades on March 15, 2006.

Points and Authorities

Variance Between Original and Amended Petitions

An amended pleading relates back to the date of the original pleading's file date. ORCP 23C. An amended pleading replaces the pleading it amends. Nothing contained in the Petition for Peremptory Writ of Mandamus that might be construed as varying from the Amended Petition for Peremptory Writ of Mandamus should or can be deemed to be a judicial admission.

No Summons Necessary

This is a mandamus proceeding. Normally, a relator seeks the issuance of a writ of mandamus *ex parte*. The relator then serves the defendant with the petition for writ of mandamus and the writ itself. For the convenience of the Secretary of State and to expedite matters, the Secretary of State has been invited to participate in what is normally the *ex parte* portion of the process. It is the mandamus statutes rather than ORCP 4 and 7 which grant this court jurisdiction over the subject matter and the defendant. ORS 34.105 to 34.240.

Federal Legal Tender Statutes Irrelevant

Relator concedes that the United States Congress has passed statutes making federal reserve notes legal tender. Moreover, relator concedes that the United States Supreme Court has incorrectly construed the United States Constitution and ruled that Congress was authorized by the United States Constitution to make mere paper, legal tender.

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

Nonetheless, neither the United States Congress nor the United States Supreme Court is empowered to amend or eliminate United States Constitution Article I, §10, Clause 1. No statute, state or federal, can alter the State of Oregon's inability to make any thing other than gold or silver coin a payment for debt.

Oregon Tender Statutes Irrelevant

Oregon has three tender statutes. ORS 81.010, 81.020, and 81.030. In so far as these statutes contravene United States Constitution Article I, §10, Clause 1, they are null and void. *Mathias v. Department of Revenue*, 312 Or 50, 817 P2d 272 (1991) (quoting Oregon Tax Court as saying, "ORS 308.205(3) violates the uniformity of taxation requirements of Article I, section 32, and Article IX, section 1, of the Oregon Constitution, and is, therefore, null and void").

Oregon's Traditions Irrelevant

A practice does not become constitutional merely because it is repeated. The two means for changing the United States Constitution are by convention and by amendment. United States Constitution Article V. Repetition is not a prescribed manner for amending the United State Constitution.

Relator's Previous Arguments in Oregon Courts

In *Leitch v. Department of Revenue,* 16 Or App 627, 519 P2d 1045 (1974) *rev den* the court of appeals rejected relator's arguments against the Tri-Met tax on employers, including his argument that the tax violated United States Constitution Article I, §10. The court of appeals said, relator "has no cognizable complaint in this [Art. I, §10] regard, for it is the federal government, not the state, that has made '[a]ll coins and currencies of the United States *** legal tender ***.' 31 USC §392 (Supp 1972)."

In *Leitch v. Department of Revenue*, 9 OTR 256 (1982) relator's eminent Portland Attorney, Ridgway K. Foley of Schwabe, Williamson, Wyatt, Moore & Roberts, argued that the United States Congress was without authority to make anything other than gold or silver the measures of money defined in the United States Constitution. Based on that theory, relator discounted the

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

value of the federal reserve notes and bank drafts he had received to reflect their specie value and reported his income based on the discounted value rather than the face value of the notes and drafts. While relator continues to believe that the United States Congress is powerless to make fiat paper into legal tender, that theory is not being argued in this case, now.

In *Leitch v. Department of Revenue,* 13 OTR 115 (1994), *affirmed* 321 Or 95, 893 P2d 1050 (1995), relator argued that United States Constitution Article I, §8 barred the United States Congress from making paper money. Relator further argued that his property should have a discounted assessed value due to the illegal nature of paper money. Again, the theory and the constitutional provision relied on by relator in that case are not being argued in this case.

United States Constitution Article I, §10, Clause 1

United States Constitution Article I, §10, Clause 1 reads:

> "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."

In salient part, that provision reads: "No State shall *** make any Thing but gold and silver Coin a Tender in Payment of Debts ***."

The State of Oregon is a State. Federal reserve notes and drafts drawn on banks are neither gold nor silver coins. An obligation to pay money – including a candidate's filing fee for office (at least as soon as the candidate has filed his declaration of candidacy[2]) is a debt.

It necessarily follows the State of Oregon cannot make a political candidate's tender of federal reserve notes or drafts drawn on banks the payment of that candidate's candidacy filing fee debt.

Defendant asserts, in agreement with the court of appeals decision in *Leitch v. Department*

[2] ORS 249.020(1) says a candidate becomes a candidate by filing either a nominating petition or declaration of candidacy. ORS 249.020(2) says that if a candidate chooses to file a declaration of candidacy, he or she is immediately obligated to pay the filing fee specified in ORS 249.056.

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

of Revenue, *supra*, that it is the federal government and not the State of Oregon that has made federal reserve notes legal tender for debts. Defendant misses the relator's point.

The State of Oregon - not the federal government – determines its own qualifications for candidates for political office. Those qualifications cannot contravene the United States Constitution. To the extent that by statute, tradition, or even by court opinion, the State of Oregon has made or will make anything other than payment of gold or silver coin payment of a candidate's candidacy filing fee debt, the State of Oregon has acted beyond its authority.

The United States Congress may have, in the words of the Oregon Tax Court, "the constitutional power to establish treasury notes of the United States as legal tender in payment of *private* debts." *Leitch v. Department of Revenue,* 13 OTR 115, at 116 (emphasis added). The United States Congress does not have the constitutional power to make federal reserve notes legal tender in payment of debts established, governed by, and owed to the State of Oregon[3].

Defendant has cited no United States Supreme Court case interpreting Article I, §10, Clause 1. Relator has found no such case either. In the absence of a definitive interpretation by the only court having authority to bind Oregon courts with its interpretation of federal law, this court is forced to use those tools legislatively given it for interpreting documents.

ORS 42.230 reads:

> **"**In the construction of an instrument, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars, such construction is, if possible, to be adopted as will give effect to all."

ORS 42.250 reads:

> "The terms of a writing are presumed to have been used in their primary and general acceptation, but evidence is admissible that they have a technical, local, or otherwise peculiar signification and were used and understood in the particular instance, in which case the agreement shall be construed accordingly."

[3] The United States Congress might obtain that power if and when United States Constitution Article I, §10, Clause 1 is amended or eliminated. It won't have that power until such amendment or elimination.

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

This court may also use the tools outlined in *Portland General Electric Company v. Bureau of Labor and Industries*, 317 Or 606, 610-611, 859 P2d 1143 (1993):

> "In interpreting a statute, the court's task is to discern the intent of the legislature. ORS 174.020; *State v. Person*, 316 Or 585, 590, 853 P2d 813 (1993); *Teeny v. Haertl Constructors, Inc.*, 314 Or 688, 694, 842 P2d 788 (1992). To do that, the court examines both the text and context of the statute. *State v. Person, supra*, 316 Or at 590; *Southern Pacific Trans. Co. v. Dept. of Rev.*, 316 Or 495, 498, 852 P2d 197 (1993). That is the first level of our analysis.
>
> "In this first level of analysis, the text of the statutory provision itself is the starting point for interpretation and is the best evidence of the legislature's intent. *State v. Person, supra*, 316 Or at 590; *State ex rel Juv. Dept. v. Ashley*, 312 Or 169, 174, 818 P2d 1270 (1991). In trying to ascertain the meaning of a statutory provision, and thereby to inform the court's inquiry into legislative intent, the court considers rules of construction of the statutory text that bear directly on how to read the text. Some of those rules are mandated by statute, including, for example, the statutory enjoinder "not to insert what has been omitted, or to omit what has been inserted." ORS 174.010. Others are found in the case law, including, for example, the rule that words of common usage typically should be given their plain, natural, and ordinary meaning. *See State v. Langley*, 314 Or 247, 256, 839 P2d 692 (1992) (illustrating rule); *Perez v. State Farm Mutual Ins. Co.*, 289 Or 295, 299, 613 P2d 32 (1980) (same).
>
> "Also at the first level of analysis, the court considers the context of the statutory provision at issue, which includes other provisions of the same statute and other related statutes. *Southern Pacific Trans. Co. v. Dept. of Rev., supra*, 316 Or at 498; *Sanders v. Oregon Pacific States Ins. Co.*, 314 Or 521, 527, 840 P2d 87 (1992). Just as with the court's consideration of the text of a statute, the court utilizes rules of construction that bear directly on the interpretation of the statutory provision in context. Some of those rules are mandated by statute, including, for example, the principles that "where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all," ORS 174.010, and that "a particular intent shall control a general one that is inconsistent with it," ORS 174.020. Other such rules of construction are found in case law, including, for example, the rules that use of a term in one section and not in another section of the same statute indicates a purposeful omission, *Emerald PUD v. PP&L*, 302 Or 256, 269, 729 P2d 552 (1986), and that use of the same term throughout a statute indicates that the term has the same meaning throughout the statute, *Racing Com. v. Multnomah Kennel Club*, 242 Or 572, 586, 411 P2d 65 (1966).
>
> "If the legislature's intent is clear from the above-described inquiry into text and context, further inquiry is unnecessary."

Here, the wording of Article I, §10, Clause 1 is crystal clear. The context in which it was written was the disastrous inflationary result of the Continental Congress and the original states' having emitted bills of credit without limit. Appended hereto are some brief treatments on the prohibition of the states' powers to make anything but gold or silver coin tender in payment of

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

debts. There can be no doubt that the founders knew exactly what they were doing, that they chose their words with care, and that there was fierce debate on the subject. Nor can there be doubt that the founders meant exactly what they said.

Conclusion

Since only one gubernatorial candidate has paid his filing fee debt in silver or gold coins, there is only one candidate who is qualified to remain on the May 16, 2006 primary ballot. Secretary Bradbury must be directed to remove every other candidate's name from the May 16, 2006 primary ballot.

DATED: March 17, 2006.

JAMES E. LEUENBERGER PC

James E. Leuenberger OSB 89154
Attorney for relator

Certificate of Delivery

I certify that I mailed true copies of this document to:

David W. Beem
1919 FAIRGROUNDS RD SE #19
SALEM, OR 97301

Jason A. Atkinson
PO BOX 1965
WILSONVILLE, OR 97070

William E. Spidal
40521 ANDERSON RD
NEHALEM, OR 97131

W. Ames Curtright
PO BOX 1350
JEFFERSON, OR 97352

Kevin Mannix
2007 STATE ST
SALEM, OR 97301

Jim Hill
PO BOX 82243
PORTLAND, OR 97282

Ted Kulongoski
PO BOX 399
PORTLAND, OR 97207

Ron Saxton
PO BOX 163
PORTLAND, OR 97207

Pete Sorenson
ELECT SORENSON
804 PEARL ST
EUGENE, OR 97401

Bob Leonard Forthan
6304 NE 23RD
PORTLAND, OR 97211

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

James E. Leuenberger

JAMES E. LEUENBERGER, PC
4800 SW MEADOWS RD, STE 300
PO BOX 1684
LAKE OSWEGO, OR 97035
503 542 7433 voice
503 419 6415 fax
jim@fights4rights.com

The Founders' Constitution

Edited by
Philip B. Kurland
and
Ralph Lerner

VOLUME THREE
Article 1, Section 8, Clause 5,
through Article 2, Section 1

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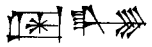

The cuneiform inscription that serves as our logo and as the design motif for our endpapers is the earliest-known written appearance of the word "freedom" (*amagi*), or "liberty." It is taken from a clay document written about 2300 B.C. in the Sumerian city-state of Lagash.

Philip B. Kurland was the William R. Kenan, Jr., Distinguished Service Professor in the College and professor in the Law School, University of Chicago.

Ralph Lerner is the Benjamin Franklin Professor in the College and professor in the Committee on Social Thought, University of Chicago.

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Pernicious. 1. by fostering luxury, extends instead of curing scarcity of specie—2. by disabling compliance with requisition of Congs. 3. serving dissentions between States. 4. destroyg. confidence between individuals. 5. discouraging commerce—6 enrichg collectors & sharpers—7 vitiating morals—8 reversing end of Govt. which is to reward best & punish worst. 9. conspiring with the examples of other States to disgrace Republican Govts. in the eyes of mankind.

Objection. paper money good before the War.

Answr. 1. not true in N. Engd. nor in Va. where exchange rose to 60 per Ct. nor in Maryd. see Franklyn on paper money 2. confidence then not now—3. principles of paper credit not then understood—Such wd. not then, nor now succeed in Great Britain &c.

3

RECORDS OF THE FEDERAL CONVENTION

[*2:439; Madison, 28 Aug.*]

Art: XII being taken up.

Mr. Wilson & Mr. Sherman moved to insert after the words "coin money" the words "nor emit bills of credit, nor make any thing but gold & silver coin a tender in payment of debts" making these prohibitions absolute, instead of making the measures allowable (as in the XIII art:) *with the consent of the Legislature of the U. S.*

Mr. Ghorum thought the purpose would be as well secured by the provision of art: XIII which makes the consent of the Genl. Legislature necessary, and that in that mode, no opposition would be excited; whereas an absolute prohibition of paper money would rouse the most desperate opposition from its partizans—

Mr. Sherman thought this a favorable crisis for crushing paper money. If the consent of the Legislature could authorize emissions of it, the friends of paper money would make every exertion to get into the Legislature in order to license it.

The question being divided; on the 1st part—"nor emit bills of credit"

N. H. ay. Mas. ay. Ct. ay. Pa. ay— Del. ay. Md divd. Va. no. N— C— ay— S— C. ay. Geo. ay. [Ayes—8; noes—1; divided—1.]

The remaining part of Mr. Wilson's & Sherman's motion, was agreed to nem: con:

Mr King moved to add, in the words used in the Ordinance of Congs establishing new States, a prohibition on the States to interfere in private contracts.

Mr. Govr. Morris. This would be going too far. There are a thousand laws relating to bringing actions—limitations of actions & which affect contracts— The Judicial power of the U— S— will be a protection in cases within their jurisdiction; and within the State itself a majority must rule, whatever may be the mischief done among themselves.

Mr. Sherman. Why then prohibit bills of credit?

Mr. Wilson was in favor of Mr. King's motion.

Mr. Madison admitted that inconveniences might arise from such a prohibition but thought on the whole it would be overbalanced by the utility of it. He conceived however that a negative on the State laws could alone secure the effect. Evasions might and would be devised by the ingenuity of the Legislatures—

Col: Mason. This is carrying the restraint too far. Cases will happen that can not be foreseen, where some kind of interference will be proper, & essential— He mentioned the case of limiting the period for bringing actions on open account—that of bonds after a certain lapse of time,—asking whether it was proper to tie the hands of the States from making provision in such cases?

Mr. Wilson. The answer to these objections is that *retrospective* interferences only are to be prohibited.

Mr. Madison. Is not that already done by the prohibition of ex post facto laws, which will oblige the Judges to declare such interferences null & void.

Mr. Rutlidge moved instead of Mr. King's Motion to insert—"nor pass bills of attainder nor retrospective laws" on which motion

N. H. ay— Ct. no. N. J. ay. Pa. ay. Del. ay. Md. no. Virga. no. N— C. ay. S. C. ay. Geo. ay. [Ayes—7; noes—3.]

[*2:448; Madison, 29 Aug.*]

Mr. Dickenson mentioned to the House that on examining Blackstone's Commentaries, he found that the terms "ex post facto" related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases, and that some further provision for this purpose would be requisite.

[*2:619; Madison, 14 Sept.*]

The first clause of Art I. sect 10—was altered so as to read—"No State shall enter into any Treaty alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold & silver coin a tender in payment of debts; pass any bill of attainder, ex post law, or law impairing the obligation of contracts, or grant any title of nobility."

Mr Gerry entered into observations inculcating the importance of public faith, and the propriety of the restraint put on the States from impairing the obligation of contracts—Alledging that Congress ought to be laid under the like prohibitions. he made a motion to that effect. He was not 2ded

[*2:640; Mason, 15 Sept.*]

Both the general legislature and the State legislature are expressly prohibited making *ex post facto* laws; though there never was nor can be a legislature but must and will make such laws, when necessity and the public safety require them; which will hereafter be a breach of all the constitutions in the Union, and afford precedents for other innovations.

4

LUTHER MARTIN, GENUINE INFORMATION
1788
Storing 2.4.75–78

By the tenth section every State is *prohibited* from *emitting bills of credit*—As it was reported by the committee of detail, the States were *only* prohibited from emitting them *without the consent of Congress;* but the convention was so *smitten* with the *paper money dread,* that they insisted the prohibition should be *absolute*. It was my opinion, Sir, that the States ought not to be *totally deprived of the right to emit bills of credit,* and that as we had *not given* an *authority* to the *general government* for that purpose, it was the *more necessary* to *retain* it in the *States*—I considered that *this State,* and *some others,* have *formerly received great benefit* from paper emissions, and that if public and private credit should once more be restored, such emissions may *hereafter be equally advantageous;* and further, that it is impossible to foresee that events may not take place which shall render paper money of *absolute necessity;* and it was my opinion, if this power was not to be exercised by a State without the permission of the general government, it ought to be satisfactory even to those who were the *most haunted* by the apprehensions of paper money; I therefore, thought it my duty to vote against this part of the system.

The same section also, puts it out of the power of the States, to make any thing but gold and silver coin a tender in payment of debts, or to pass any law impairing the obligation of contracts.

I considered, Sir, that there might be times of such *great public calamities* and *distress,* and of such *extreme scarcity* of *specie* as should render it the *duty* of a government, for the *preservation* of even the *most valuable part* of its citizens in some measure to interfere in their favour, by passing laws *totally* or *partially stopping* the courts of justice, or authorising the debtor to pay by *instalments,* or by delivering up his property to his creditors at a *reasonable* and *honest* valuation. The times have been such as to render regulations of this kind necessary in most, or all of the States, to prevent the *wealthy creditor* and the *monied man* from *totally* destroying the *poor* though even *industrious* debtor—*Such times* may *again* arrive. I therefore, voted against depriving the States of this power, a power which I am decided they ought to possess, but which I admit ought only to be exercised on very important and urgent occasions. I apprehend, Sir, the principal cause of complaint among the people at large is, the public and private debt with which they are oppressed, and which, in the present scarcity of cash, threatens them with destruction, unless they can obtain so much indulgence in point of time that by industry and frugality they may extricate themselves.

This *government proposed,* I apprehend, so *far from removing* will greatly *encrease* those complaints, since grasping in its all powerful hand the citizens of the respective States, it will by the imposition of the variety of *taxes, imposts, stamps, excises,* and *other duties, squeeze* from them the little money they acquire, the hard earnings of their industry, as you would squeeze the juice from an orange, till not a drop more can be extracted, and then let *loose* upon them their *private creditors,* to whose *mercy* it *consigns* them, by *whom* their property is to be *seized upon* and *sold* in this *scarcity* of *specie* at a *sheriff's sale,* where nothing but *ready cash* can be received, for a *tenth part* of its *value,* and *themselves* and their *families* to be consigned to *indigence* and *distress,* without *their governments* having a *power* to *give them a moment's indulgence,* however *necessary* it might be, and however *desirous* to grant them aid.

5

JAMES MADISON, FEDERALIST, NO. 44, 299–302
25 Jan. 1788

The prohibition against treaties, alliances and confederations, makes a part of the existing articles of Union; and for reasons which need no explanation, is copied into the new Constitution. The prohibition of letters of marque is another part of the old system, but is somewhat extended in the new. According to the former, letters of marque could be granted by the States after a declaration of war. According to the latter, these licenses must be obtained as well during war as previous to its declaration, from the government of the United States. This alteration is fully justified by the advantage of uniformity in all points which relate to foreign powers; and of immediate responsibility to the nation in all those, for whose conduct the nation itself is to be responsible.

The right of coining money, which is here taken from the States, was left in their hands by the confederation as a concurrent right with that of Congress, under an exception in favor of the exclusive right of Congress to regulate the alloy and value. In this instance also the new provision is an improvement on the old. Whilst the alloy and value depended on the general authority, a right of coinage in the particular States could have no other effect than to multiply expensive mints, and diversify the forms and weights of the circulating pieces. The latter inconveniency defeats one purpose for which the power was originally submitted to the foederal head. And as far as the former might prevent an inconvenient remittance of gold and silver to the central mint for recoinage, the end can be as well attained, by local mints established under the general authority.

The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice, and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of paper money, on the necessary confidence between man and man; on the necessary confidence in the public councils; on the industry and morals of the people, and on the character of Repub-

lican Government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice, of the power which has been the instrument of it. In addition to these persuasive considerations, it may be observed that the same reasons which shew the necessity of denying to the States the power of regulating coin, prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin. Had every State a right to regulate the value of its coin, there might be as many different currencies as States; and thus the intercourse among them would be impeded; retrospective alterations in its value might be made, and thus the citizens of other States be injured; and animosities be kindled among the States themselves. The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit paper money than to coin gold or silver. The power to make any thing but gold and silver a tender in payment of debts, is withdrawn from the States, on the same principle with that of striking of paper currency.

Bills of attainder, ex post facto laws, and laws impairing the obligation of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation. The two former are expressly prohibited by the declarations prefixed to some of the State Constitutions, and all of them are prohibited by the spirit and scope of these fundamental charters. Our own experience has taught us nevertheless, that additional fences against these dangers ought not to be omitted. Very properly therefore have the Convention added this constitutional bulwark in favor of personal security and private rights; and I am much deceived if they have not in so doing as faithfully consulted the genuine sentiments, as the undoubted interests of their constituents. The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and with indignation, that sudden changes and legislative interferences in cases affecting personal rights, become jobs in the hands of enterprizing and influential speculators; and snares to the more industrious and less informed part of the community. They have seen, too, that legislative interference, is but the first link of a long chain of repetitions; every subsequent interference being naturally produced by the effects of the preceding. They very rightly infer, therefore, that some thorough reform is wanting which will banish speculations on public measures, inspire a general prudence and industry, and give a regular course to the business of society. The prohibition with respect to titles of nobility, is copied from the articles of confederation, and needs no comment.

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CHARLES PINCKNEY, SOUTH CAROLINA RATIFYING CONVENTION
20 May 1788
Elliot 4:333–36

This section I consider as the soul of the Constitution,—as containing, in a few words, those restraints upon the states, which, while they keep them from interfering with the powers of the Union, will leave them always in a situation to comply with their federal duties—will teach them to cultivate those principles of public honor and private honesty which are the sure road to national character and happiness

The only parts of this section that are objected to are those which relate to the emission of paper money, and its consequences, tender-laws, and the impairing the obligation of contracts.

The other parts are supposed as exclusively belonging to, and such as ought to be vested in, the Union.

If we consider the situation of the United States as they are at present, either individually or as the members of a general confederacy, we shall find it extremely improper they should ever be intrusted with the power of emitting money, or interfering in private contracts; or, by means of tender-laws, impairing the obligation of contracts.

I apprehend these general reasonings will be found true with respect to paper money: That experience has shown that, in every state where it has been practised since the revolution, it always carries the gold and silver out of the country, and impoverishes it—that, while it remains, all the foreign merchants, trading in America, must suffer and lose by it; therefore, that it must ever be a discouragement to commerce—that every medium of trade should have an intrinsic value, which paper money has not; gold and silver are therefore the fittest for this medium, as they are an equivalent, which paper can never be—that debtors in the assemblies will, whenever they can, make paper money with fraudulent views—that in those states where the credit of the paper money has been best supported, the bills have never kept to their nominal value in circulation, but have constantly depreciated to a certain degree.

I consider it as a granted position that, while the productions of a state are useful to other countries, and can find a ready sale at foreign markets, there can be no doubt of their always being able to command a sufficient sum in specie to answer as a medium for the purposes of carrying on this commerce; provided there is no paper money, or other means of conducting it. This, I think, will be the case even in instances where the balance of trade is against a state; but where the balance is in favor, or where there is nearly as much exported as imported, there can be no doubt that the products will be the means of always introducing a sufficient quantity of specie.

If we were to be governed by partial views, and each