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Money and the Constitution

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Abstract

In the past ten years, the world has witnessed a transformation in the relationship between governments and the supply of money. A number of countries, including the United Kingdom, New Zealand and the 11 European countries participating in EMU, have made their national central banks 'independent'. Inflation is at a post World War II low, and there a general recognition that inflation cannot, in the long term, create employment or boost economic growth. The economic consensus is that the best monetary policy is the pursuit of price stability.

However, these changes to monetary regimes have been a pragmatic response to the problem of high inflation. There has been little recognition of the constitutional implications of the supply of money.

I argue that this pragmatic approach is constitutionally dangerous. Upon examining the history of money, it is clear there are fundamental property rights associated with the issue of money. There is a strong need for monetary arrangements to be identified as constitutional issues, and for constitutional rules to be developed and applied in relation to the issue of money. This thesis analyses the appropriate relationship between governments and money from a constitutional perspective.

Chapters II-VI examine the following issues:

- the constitutional principles which should guide the behaviour of any government in relation to money;
- the historical development of money and its theoretical qualities;
- the difference between 'commodity' and 'fiat' money and the constitutional implications of their respective monopoly supply by governments; and
- the constitutionally ideal monetary regime.

Chapters VII, VIII and IX then examine the existing monetary regimes in New Zealand, the United Kingdom, and in the European Union, and I compare these regimes to the constitutionally ideal monetary order identified in Chapter VI. The penultimate Chapter examines electronic payment systems over the Internet, and assesses the possible impact these will have on governments’ monetary monopolies in the future.

The fundamental conclusion of the thesis is that adherence to constitutional principles demands that money be supplied on a private competitive basis.

Notwithstanding that many central banks are now ‘independent’, the way money is supplied today - by governments possessing monetary monopolies - is contrary to the principles of constitutionalism.
## Contents

### I Introduction

- The role of governments in the supply of money has changed
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- Wider economic reform has not been justified on the basis of principle
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- Constitutional principles form the basis from which to assess economic legislation
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- Chapters II-VI: identify and apply constitutional rules
- Chapters VII, VIII and IX: constitutional principles and existing monetary regimes
- Digital cash/electronic money

### II Constitutionalism and the Rule of Law

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