The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 27: Can the United States "Again" Confiscate Everyone's Gold?

Asking if something can be done "again" presupposes that it actually occurred a first time.

In a continuing quest to restore a federal government of enumerated powers, it is proper to examine previous instances of excessive federal overreach, to ensure we don't draw the wrong conclusions, especially false ones which only further enslave us.

To hold federal officials accountable to the rule of law, it is appropriate to examine critically President Franklin Delano Roosevelt's April 5, 1933 gold "CON-fiscation" order, either to verify its lawful action or to expose the clever legal shenanigans used to pull off this spectacular political coup, to prevent it from ever happening "again."

Under the apparent command of FDR's Executive Order No. 6102, large numbers of Americans turned in some 200 million to 300 million dollars' worth (as then-valued) of gold coin, gold bullion and gold certificates, under threat of $10,000 fines and ten-year prison terms, for irredeemable paper currency.

Section 2 of FDR's infamous order contained the words never before uttered in the U. S., saying:

> "All persons are hereby required to deliver on or before May 1, 1933, to a Federal Reserve Bank or branch or agency thereof or to any member bank of the Federal Reserve System all gold coin, gold bullion and gold certificates now owned by them or coming into their ownership on or before April 28, 1933…"[1]

Of course, given the immutable guarantees of the Fifth Amendment, noted below, FDR's dreaded executive order should have not been expressed even once (if the words of the order truly reached the meaning officially-claimed):

> "No person shall…be deprived of life, liberty or property, without due process of law, nor shall private property be taken for public use without just compensation."

Since the executive order was carried out—without court trials finding people guilty of crimes and without each individual person being ordered by a court to pay a specified fine in gold—the first question which appears relevant, is:

> "How may a President's executive order supersede the Fifth Amendment's protections of **Due Process**?"

And, correspondingly, the next question would appear to be:

> "How can forcing people to give up their gold, for paper, be considered, **Just Compensation**?"

1. *The Public Papers and Addresses of Franklin D. Roosevelt.* Vol. II, The Year of Crisis, 1933. Random House, NY. 1938. Executive Order No. 6102. Page 111 @ 112.

www.archive.org/details/4925381.1933.001.umich.edu/page/n5

FOUNDATION FOR Liberty

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January 5, 2022

POSTMASTER: PLEASE POST IN A CONSPICUOUS PLACE.—JAMES A. FARLEY, Postmaster General

UNDER EXECUTIVE ORDER OF THE PRESIDENT

issued April 5, 1933

all persons are required to deliver

ON OR BEFORE MAY 1, 1933

all GOLD COIN, GOLD BULLION, AND GOLD CERTIFICATES now owned by them to a Federal Reserve Bank, branch or agency, or to any member bank of the Federal Reserve System.

Executive Order

FORBIDDING THE HOARDING OF GOLD COIN, GOLD BULLION AND GOLD CERTIFICATES.

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917, as amended by Section 2 of the Act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", in which statutory Act Congress declared that a serious emergency exists, I, Franklin D. Roosevelt, President of the United States of America, do declare that said national emergency still continues to exist and pursuant to said section do hereby prohibit the hoarding of gold coin, gold bullion, and gold certificates within the continental United States by individuals, partnerships, associations and corporations and hereby prescribe the following regulations for carrying out the purposes of this order:

Section 1. For the purposes of this regulation, the term "hoarding" means the withdrawal and withholding of gold coin, gold bullion or gold certificates from the recognized and customary channels of trade. The term "person" means any individual, partnership, association or corporation.

Section 2. All persons are hereby required to deliver on or before May 1, 1933, to a Federal reserve bank or a branch or agency thereof or to any member bank of the Federal Reserve System all gold coin, gold bullion and gold certificates now owned by them or coming into their ownership on or before April 28, 1933, except the following:

(a) Such amount of gold as may be required for legitimate and customary use in industry, profession or art within a reasonable time, including gold prior to refining and stocks of gold in reasonable amounts for the usual trade requirements of owners mining and refining such gold.

(b) Gold coin and gold certificates in an amount not exceeding in the aggregate $100.00 belonging to any one person; and gold coins having a recognized special value to collectors of rare and unusual coins.

(c) Gold coin and bullion earmarked or held in trust for a recognized foreign government or foreign central bank or the Bank for International Settlements.

(d) Gold coin and bullion licensed for other proper transactions (not involving hoarding) including gold coin and bullion imported for reexport or held pending action on applications for export licenses.

Section 3. Until otherwise ordered any person becoming the owner of any gold coin, gold bullion, or gold certificates after April 28, 1933, shall, within three days after receipt thereof, deliver the same in the manner prescribed in Section 2; unless such gold coin, gold bullion or gold certificates are held for any of the purposes specified in paragraphs (a), (b) or (c) of Section 2; or unless such gold coin or gold bullion is held for purposes specified in paragraph (d) of Section 2 and the person holding it is, with respect to such gold coin or bullion, a licensee or applicant for license pending action thereon.

Section 4. Upon receipt of gold coin, gold bullion or gold certificates delivered to it in accordance with Sections 2 or 3, the Federal reserve bank or member bank will pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States.

Section 5. Member banks shall deliver all gold coin, gold bullion and gold certificates owned or received by them (other than as exempted under the provisions of Section 2) to the Federal reserve banks of their respective districts and receive credit or payment therefor.

Section 6. The Secretary of the Treasury, out of the sum made available to the President by Section 501 of the Act of March 9, 1933, will in all proper cases pay the reasonable costs of transportation of gold coin, gold bullion or gold certificates delivered to a member bank or Federal reserve bank in accordance with Sections 2, 3, or 5 hereof, including the cost of insurance, protection, and such other incidental costs as may be necessary, upon production of satisfactory evidence of such costs. Voucher forms for this purpose may be procured from Federal reserve banks.

Section 7. In cases where the delivery of gold coin, gold bullion or gold certificates by the owners thereof within the time set forth above will involve extraordinary hardship or difficulty, the Secretary of the Treasury may, in his discretion, extend the time within which such delivery must be made. Applications for such extensions must be made in writing under oath, addressed to the Secretary of the Treasury and filed with a Federal reserve bank. Each application must state the date by which the extension is desired, the amount and location of the gold coin, gold bullion and gold certificates in respect of which such application is made and the facts showing extension to be necessary to avoid extraordinary hardship or difficulty.

Section 8. The Secretary of the Treasury is hereby authorized and empowered to issue such further regulations as he may deem necessary to carry out the purposes of this order and to issue licenses thereunder, through such officers or agencies as he may designate, including licenses permitting the Federal reserve banks and member banks of the Federal Reserve System, in return for an equivalent amount of other coin, currency or credit, to deliver, earmark or hold in trust gold coin and bullion to or for persons showing the need for the same for any of the purposes specified in paragraphs (a), (c) and (d) of Section 2 of these regulations.

Section 9. Whoever wilfully violates any provision of this Executive Order or of these regulations or of any rule, regulation or license issued thereunder may be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in any such violation may be punished by a like fine, imprisonment, or both.

This order and these regulations may be modified or revoked at any time.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE
April 5, 1933.

For Further Information Consult Your Local Bank

GOLD CERTIFICATES may be identified by the words "GOLD CERTIFICATE" appearing thereon. The serial number and the Treasury seal on the face of a GOLD CERTIFICATE are printed in YELLOW. Be careful not to confuse GOLD CERTIFICATES with other issues which are redeemable in gold but which are not GOLD CERTIFICATES. Federal Reserve Notes and United States Notes are "redeemable in gold" but are not "GOLD CERTIFICATES" and are not required to be surrendered

Special attention is directed to the exceptions allowed under Section 2 of the Executive Order

CRIMINAL PENALTIES FOR VIOLATION OF EXECUTIVE ORDER
$10,000 fine or 10 years imprisonment, or both, as provided in Section 9 of the order

W. H. Woodin
Secretary of the Treasury.

U.S. Government Printing Office: 1933 2-16064

Since the answers to these questions—given the inviolable Fifth Amendment—must necessarily be that **Americans cannot be thus forced,** one may rightfully conclude that *these are the wrong questions to ask* (rather than jumping to the false conclusion that an executive order may trump an amendment).

Instead, we must question false assumptions, so we may begin to learn what actually happened some 90 years ago, to ensure it doesn't happen "again."

And, the first question to ask, is:

> "How can forcing people to deliver their gold and accept paper be in line with the Fifth Amendment, even as one would normally view them as being opposed to one another?"

In other words, we must examine FDR's Executive Order No. 6102 in a wholly new light, *so that it necessarily does NOT counter the Fifth Amendment's Due Process and Just Compensation protections*—which no federal action may actually ever counter (despite so many appearances to the contrary [there is a reason every member of Congress and elected or appointed federal official must swear an oath of constitutional support {to confirm their subservience}]).

And, it is also necessarily up to patriots to explain how federal servants falsely appear to be our political masters, since they cannot be. Because, it isn't enough, simply to assert that various federal actions which appear beyond normal constitutional parameters are "unconstitutional," as if that impotent "explanation" ever secured our precious freedom.

Indeed, if federal servants may perform various actions that are "unconstitutional," then assuredly they are our masters and we are doomed to obey (until we openly revolt).

Instead, full and open investigations into questionable historical events will necessarily show that federal servants who falsely appear to be our political masters are merely accomplished con artists who claim to be all-powerful magicians, but who have no actual magic under their hats, when their sensational successes are properly examined under the bright light of day.

Americans must realize that we live under a *Laissez-Faire,* citizen-beware type of government, where what one doesn't know, can and will be used against them.

It has been *Open Season* on unsuspecting citizens, ever since Alexander Hamilton set out by 1791, to get indirectly over time, the omnipotent central government he had sought directly at the Constitutional Convention of 1787, but didn't get.[2]

The author of this paper asserts that the best approach going forward is to give the answer, and then work backwards to support the claim, in order to avoid needless discussion of dead-end theories.

And, the answer in this case is, Americans may be forced the deliver their gold and accept paper, *only when they had contractually obligated themselves, individually, in a voluntary economic exchange.*

And, voluntary economic exchanges happen in *private commerce*, NOT in government-vs-citizen relations, *which is necessarily why all persons had to deliver their gold to private banks, rather than any federal office* (the U.S. Treasury, Post Offices, etc.).

Indeed, ask yourself why Post Offices could post FDR's gold confiscation order (shown earlier in this paper), but NOT also serve as the [ever-convenient] places where Americans turned in their gold.

This investigation will show that not everyone was obligated to deliver gold *to a bank*, for paper, by Roosevelt's Executive Order No. 6102—instead, only those "persons" contractually obligated to deliver gold to a bank, for paper, were the only "persons" reached!

And, the only people with a [pre-existing] legal obligation to deliver gold to a bank were *bank shareholders* who had earlier purchased bank stock for a chance to earn profits by sharing in the running of a bank.

By ordering bank stockholders to deliver gold to the banks to back their banking liabilities, the banks would be better positioned to pay off banknote holders who had the contractual legal right to get gold for the bank notes they held in hand, and bank depositors could get gold out of their accounts, that they were contractually due (even if there were some time restraints involved).

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2. But, this paper isn't on that primary topic (as are other papers, and books, by the author)—but this paper discusses another topic that ultimately rests upon Hamilton's Constitution-Bypass Mechanism, for success.

One may easily verify that bank shareholders had the contractual legal obligation to back their banking liabilities with gold, and send gold to the bank, *whenever required,* due to falling bank reserves.

Section 16 of the 1913 Federal *Reserve* Act expressly details the *minimum* gold *reserves* required, saying:

> "Every Federal reserve bank shall maintain reserves in gold or lawful money of not less than thirty-five per centum against its deposits and reserves in gold of not less than forty per centum against its Federal reserve notes in actual circulation, and not offset by gold or lawful money deposited with the Federal reserve agent."[3, 4]

As any investor who has ever purchased an investment on leverage knows, when the market moves against one's position, equity evaporates quickly.

And, of course, the loss of equity comes off the top. [5]

3. 38 Stat 251 @ 266. Section 16. 1913.

4. Federal Reserve notes each had printed on their face:

> "Redeemable in Gold on Demand at the United States Treasury, or in gold or lawful money, at any Federal Reserve Bank."

5. For instance, 40% equity of $100,000 of [banking] liabilities equals a minimum of $40,000 of initial investment. But, let's say the bank's current market value plummets 20%, from $100,000, down to $80,000, in this case.

The loss of $20,000 of equity, from $100,000 means that the shareholder only has $20,000 of remaining equity on $80,000 of exposure, or 25% residual equity.[6]

6. $100,000 - $20,000 = $80,000 (original liability exposure - loss of value = residual value).

$40,000 - $20,000 = $20,000 (original equity - loss = remainder equity).

$20,000/$80,000 = 25% (remaining equity/current residual value = reserve percentage).

In this example, the bank shareholder will need to add at least $12,000, to pull his equity up to the minimum 40% reserve.

$20,000 + $12,000 = $32,000 ($32,000/$80,000 = 40%).

Shareholders are always responsible for 100% of their exposure, even those purchasing bank stock on margin.

Section 2 of the Federal Reserve Act further said, on the topic of investment liability:

> "The shareholders of every Federal reserve bank shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent of the amount of their subscriptions to such stock at the par value thereof in addition to the amount subscribed, whether such subscriptions have been paid up in whole or in part, under the provisions of this Act."[7]

By Section 2 of the 1913 Federal Reserve Act, one sees that bank shareholders were individually responsible, for all "contracts, debts, and engagements" of the designated bank, of which they owned stock, to the full extent of their stock.

As of April of 1933—due to unparalleled demand from customers who no longer trusted the solvency of over-leveraged banks—banking customers and bank-note holders had made repeated runs on the banks, for the gold they were contractually due.

Stated plainly, Executive Order No. 6102 was legally equivalent to a broker making a **margin call** on bank shareholders, letting them know they needed to deliver sufficient gold to back their gold-backed banking liabilities, which were then facing severe strain.

Given that Executive Order No. 6102 was legally only notification to shareholders to deliver contractual gold to banks, it would be absurd for any shareholder to assert a Fifth Amendment violation. Every investor who ever purchases any investment on leverage likewise faces required shoring of their account, whenever their equity falls below minimum reserves.

Strictly speaking, Executive Order No. 6102 could not therefore be "unconstitutional" on its face.

If one was NOT a bank shareholder, then FDR's Executive Order No. 6102 *imposed no legal obligations upon them*—non-shareholders simply weren't "persons" for purposes of the executive order!

Now, to prove that critical assertion, by examining Executive Order No. 6102 in greater depth…

7. 38 Stat. 251 @ 252, 1913.

Under the Wild West, *Laissez-Faire* government we currently face—ignorance of the law is no excuse—federal officials have no legal obligation to defend individuals, even those who may not be up to the task.

Americans were largely divested of their gold, because they didn't understand how they were being snookered, to defend themselves and their most liquid form of property, adequately.

Under the actual, limited reach of Executive Order No. 6102—affecting only bank shareholders—no Fifth Amendment violations would or could come into play.

Before April 5, 1933, banks *owned* paper and *owed* gold, upon the demand of the individual banknote holder or individual bank depositor.

Therefore, it was fully proper that the bank shareholders should bring their gold to the banks, just as it was proper for government to notify the shareholders of this requirement, of banks organized under a government charter.

Of course, this is opposite of how the executive order was eventually carried out—instead, bank *customers* were led to believe falsely that they had to *deliver* their gold, to the bank, rather than being able to *get* gold, from the bank, that they were contractually due.

Executive Order No. 6102 was deceptively written and deviously enforced, in an opposite manner as was legally possible, to favor the contracted party held responsible at law, at the expense of the opposing parties, who were protected at law.

This subversion of contractual legal obligations is never a legitimate function of American government under the Republic, even as people damaged do also have the duty to inform themselves of the true nature of the circumstances affecting them and respond accordingly.

Proper American government—-operational throughout the Union—cannot inflict damage to create a victim class, to intentionally favor a victor class (like it can evidently be done, in the District Seat, under which power Executive Order No. 6102 necessarily relies [for lengthy support of this particular claim, please see the author's public domain books, hereinafter referenced]).

While Executive Order No. 6102 was, in the end, an allowable command (when properly limited), it should not even be proper under the exclusive legislation power of the District of Columbia, when implemented as a sledgehammer to pummel everyone else who was yet protected in their property, to falsely give it up.[8a]

Since gold and paper are not equivalent values—since forcing bank customers to deliver gold and accept non-redeemable notes is neither "Due Process" nor "Just Compensation"—just how was the peculiar political coup actually pulled off?

First, it's important to reiterate that FDR's Executive Order No. 6102 did not, in and of itself—on its face— directly violate the U.S. Constitution, for nothing implemented by federal servants ever may.

No person who must swear an oath of support to the U.S. Constitution (and, that is all of them) is ever empowered to ignore the unassailable parameters of the Constitution, directly, when operating throughout the Union (but that does not evidently stop them, under their exclusive powers of the District Seat).

Everything that appears contrary to this central fact typically operates under the exclusive legislation powers allowed Congress for the District of Columbia.[8b]

To state it plainly, "persons" of FDR's Executive Order No. 6102 were NOT and cannot be the *same* "persons" mentioned in the Fifth Amendment, the latter of whom cannot be deprived of life, liberty or property, without due process of law and cannot be deprived of property, without just compensation.

So, how could *different* people be discussed, in Executive Order No. 6102 and the Fifth Amendment, such that no direct disagreement actually existed?

Recall the ominous earlier appearance of Section 2, with its words that:

> "All persons are hereby required to deliver…to a…bank…all gold coin, gold bullion and gold certificates…on or before April 28, 1933…"

While these menacing words appear to reach every possible person—"all persons"—it is fairly easy to prove that these words do not actually reach *everyone*.

8a & 8b. Realize that in the District Seat, all governing powers are *united* in Congress and the U.S. Government, whereas essentially everywhere else, the Constitution *divides* governing powers into enumerated federal powers and reserved State powers.

How about a foreigner, owning gold, living outside and without tie to the U.S.—could the American President command *that person* to deliver their gold to an American bank, in exchange of bank paper?

Obviously, not—*so the case is hereby closed.*

Not every "person"—defined without limit—could be reached by Executive Order No. 6102. Only *some* persons were reached by the order.

Now, to prove which ones…

Government apologists may point out, that is why only the "hoarding" of gold "within the continental United States" was mentioned in the first paragraph of the order—to only reach certain "persons" (ostensibly, only those persons owning gold in the continental U.S.).

But, that half-truth doesn't change the central fact that the express definition of "person" for the order *is not what gives them their exemption!*

It is critically significant that "person" *is explicitly defined within the executive order*, in Section 1, *for the express purposes of the order,* pointedly declaring:

> "For the purposes of this regulation…The term 'person' means any individual, partnership, association or corporation."

The specific phrase "for the purposes of this regulation" lets readers know that it does NOT matter how the term is elsewhere defined or understood—in this case, "person"—for the express purposes of Executive Order No. 6102—*only means as defined.*

The wonderful thing about giving "person" a specific legal definition for the explicit purposes of this regulation is that every non-"person" (*not reached* by the definition) *suddenly becomes reciprocally exempted!* No one outside the explicit definition of "person" had *any legal duty* whatsoever, to turn in their gold, and accept non-redeemable paper in its place!

For instance, the order does NOT even read that "person" for purposes of this regulation, "means any individual, partnership, association or corporation *within the continental United States"* as the government apologist above may falsely imply.

Critical readers highly-interested in maintaining their freedom, under limited government, will notice the vital words of Section 1, that "person," for purposes of the regulation, *means* "any individual, partnership, association or corporation."

While "*all* persons" were required to deliver gold, "person" was yet explicitly defined only as "*any* individual, partnership, association or corporation."

Any does NOT mean *all! Any* does NOT mean *every!*

By cleverly detailing that "all persons" had to deliver their gold, the authors of this order deviously implied that all individuals, all partnerships, all associations or all corporations were all "persons," for purposes of the executive order, and thus all of them were all required to deliver their gold!

But, that is not what the order legally stated!

While *any* individual, partnership, association or corporation *could be a "person" for purposes of this regulation* (i.e., any individual, partnership, association or corporation *could buy bank stock),* NOT all of them necessarily were (not all of them bought stock)! And, that is the dreaded little secret the authors of the executive order never wanted people to figure out.

The truth of the matter is that ONLY those particular individuals, partnerships, associations or corporations *who had earlier purchased bank stock* were a "person" obligated to send gold to a bank when required by Executive Order No. 6102!

With any assertion—even those that make far more sense than "official" explanations—it is yet important to verify their accuracy.

For all the people who mistakenly think that all individuals, all partnerships, all associations, and all corporations all had to deliver their gold (despite the actual wording of the order), simply ask whether banks were persons "for purposes of this regulation."

After all, if all individuals, all partnerships, all associations, and all corporations were "persons" for purposes of this regulation, then surely private banks were among one of the latter-type of designated "persons" (banks typically organize in a partnership, association or corporate manner).

Are *banks* also pe*rsons*, for purposes of this regulation?

That is a fair question, since the express definition of "person" *provided no express exemptions whatsoever!*

After all, the executive order was NOT worded, that "person," for purposes of this regulation, means "any individual, partnership, association, and corporation, *except banks."* Neither did the order define "person" as "*all* individuals, partnerships, associations, and corporations, *except banks."*

Note that "persons" were defined in Section 1, *before* "all persons" were commanded in Section 2 to deliver their gold to a bank.

There are only two possible answers, to the question of whether banks were persons "for purposes of this regulation"—either banks ARE a person for purposes of this regulation or they are NOT a person for purposes of this regulation.

Let's examine the first possibility first, to see if member banks ARE a "person" with a legal obligation to deliver their gold to a bank.

But, if member banks of the Federal Reserve System ARE a person, "for purposes of this regulation," then how do they ever *receive* gold from every other person?

How can one "person" be required to *deliver* gold, yet another person (undifferentiated *within the express definition given for "person") receive* gold?

What is so different as to this particular type of person, who can *receive* gold?

Remember, the definition of person "for purposes of this regulation" did not differentiate *anyone*—in fact, just the opposite. Nominally, [all] individuals, partnerships, associations and corporations were held *in an undifferentiated manner,* as "persons."

At a minimum, saying that banks ARE a person "for purposes of this regulation" would prove the existence of *two* different types of "persons," neither of whom are ever defined separately within the express definition of "person," for the explicit purposes of the order.

Remember, the Legal Beagles who wrote the order could choose to define "person" however they wanted, if one is to believe that American Presidents may command people at will, irrespective of the Fifth Amendment (and the remainder of the Constitution).

Since a mere executive order cannot trump an amendment, the words chosen must be important, for they cannot counter the supreme Law of the Land.

Now, the other possibility is that banks are NOT persons for purposes of this regulation.

Section 5 of Executive Order No. 6102 helps shed some light on this possibility. It reads that:

> "Section 5. Member banks shall deliver all gold coin, gold bullion and gold certificates owned or received by them...to the Federal Reserve Banks of their respective districts and receive credit or payment therefor."[9]

Under Section 5, the small, local, member banks of the Federal Reserve system were ordered to deliver all gold coin, gold bullion and gold certificated owned or received by them, to one of the (12) Federal Reserve Banks, and receive credit therefore.

Section 5 makes an arguable case that, even if the small banks are NOT Section 1 or Section 2 "persons," they ARE Section 5 "persons," with an ultimate obligation to deliver their gold to a Federal Reserve Bank (even as it does NOT disclose how, as "persons" with an ultimate command to *deliver* gold, that these "persons" yet had a peculiar interim ability to *receive* gold).

Section 5 also provides further evidence that the (12) large Federal Reserve Banks are NOT "persons" under Executive Order No. 6102, as they *never* have any legal duty under this regulation to deliver their gold coin, gold bullion, or gold certificates, anywhere else.

While the 12 large Federal Reserve Banks are NOT likely a person "for purposes of this regulation," it is still significant that the explicit definition of "person" in Section 1 of the executive order *still did not expressly exempt even them.*

Nothing within the definition of "person" in Section 1 of Executive Order No. 6102 expressly exempts even the large, Federal Reserve Banks—if "person" is to mean all individuals, all partnerships, all associations, or all corporation (even though the executive order does not use the word "all," pertaining to individuals, partnerships, associations, or corporations).[10]

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9. *The Public Papers and Addresses of Franklin D. Roosevelt.* Vol. II, The Year of Crisis, 1933. Random House, NY. 1938. Executive Order No. 6102. Page 111 @ 112.

www.archive.org/details/4925381.1933.001.umich.edu/page/n5

The critical point of this exercise is that if *any* bank, big or small, was somehow exempt from being defined as a "person" without an express exemption, then *some* individuals, *some* partnerships, *some* associations, or *some* corporations were NOT persons "for purposes of this regulation."

A critical reading of the order appears to show, in a "worst case" scenario, that, despite but one definition, there are yet two types of "persons," with a third yet somehow exempt from being a "person," *even without an express exemption.*

The first type of person are those individuals, partnerships, associations or corporations with only a supposed duty to deliver gold to another person, even as this second person has no separate legal definition.

The second type of person are those (individuals?) partnerships, associations or corporations that, besides perhaps having an ultimate duty to deliver gold, nevertheless seem to have the odd interim ability to receive every other person's gold.

And, lastly, there is a third type or class of persons—some type of undefined *non-person*—who never has any duty under the executive order to deliver gold, but who instead gets to receive every other person's gold.

Or, alternatively—if the Constitution means anything—then only those individuals, partnerships, associations or corporations *who were bank shareholders* were "persons" that had a legal duty to send gold to a bank when required.

From this breakdown, the take-home point here is that if there was at least *one* exception which was yet not expressly-exempted from the express definition of "person" within the decree, then perhaps there could be others also, such as an exception to keep a mere presidential decree from violating the supreme Law of the Land—including its Fifth Amendment protections of *any* person ever being deprived of property without Due Process and Just Compensation.

By critical examination, one can see that FDR's April 5, 1933 Executive Order No. 6102 effectively separated Americans from their gold, as gold coin, gold bullion, and gold certificates were ultimately delivered to the 12 large Federal Reserve Banks.

Although the executive order ultimately accumulated gold coin, gold bullion and gold certificates in the 12 Federal Reserve Banks, that is not how things were ultimately left, at the end of a chain of gold confiscation decrees, dictates, and edicts.

On January 30, 1934, Congress enacted the Gold Reserve Act of 1834. Section 2 of the Act detailed that:

> "Upon the approval of this Act all right, title, and interest, and every claim of…every Federal Reserve bank…in and to any and all gold coin and gold bullion shall pass to and are hereby vested in the United States; and in payment therefor…shall be payable in gold certificates."[11]

Recall, that Executive Order No. 6102 required "all persons" to deliver their gold *coin*, gold *bullion* and gold *certificates* to a bank, and the small, local banks eventually delivered all their collected gold to one of the 12 large, Federal Reserve Banks.

Under the Gold Reserve Act of 1934, one finds that the U.S. Government received title to all the gold *coin* and gold *bullion* accumulated in the large Federal Reserve Banks, *but only the coin and bullion.*

The 1934 Gold Reserve Act verifies that the Federal Reserve Banks kept all the *gold certificates* accumulated from the year before!

And, further, the Federal Reserve Banks were paid for "their" accumulated gold coin and gold bullion, *in gold certificates*—the same gold certificates that were ostensibly prohibited to those who were mere "persons," the year before!

Realize that while the U.S. Government received the nominal ownership title to all the accumulated gold

10. Note that the Federal Reserve Banks are congressionally-chartered private firms, with an appointed Board of Directors. Yet, the definition of "person" still does not even expressly exempt public corporations (if "person" is meant to reach all individuals, all partnerships, all associations, and all corporations ["all" corporations should reach both private and public corporations]).

11. 48 Stat. 337.

coin and gold bullion by the Gold Reserve Act of 1934, the government paid for the gold coins and gold bullion in new gold certificates, which in reality are pink slip titles for the "government-owned" gold.

Anyone who has ever purchased a car with a bank loan has undoubtedly seen their Certificate of Title, which clearly separates the "registered" owner (the borrower) from the "legal" owner (the lender).

Well, in much the same manner, gold certificates are the pink-slip titles, showing the holders (banks) as the legal owner of the "government-owned" gold—even if or when the registered owner (the government) has physical possession of the covered asset (gold).

In other words, while the government eventually "got" the physical gold, all it had as of June 30, 1934 was *fully-mortgaged* gold, *without any equity in it*, with the Federal Reserve Banks holding 100% of the equitable title (the government merely had the legal duty to keep safe the physical gold, at this point)!

The following day—on January 31, 1934—President Franklin D. Roosevelt issued Presidential Proclamation No. 2072, which declared the "weight of the gold dollar to be 15 5/21 grains nine tenths fine," which is equivalent to gold worth $35.00/ounce.[12]

The day before, the weight of the gold dollar was 25.2 grains of gold nine-tenths fine (23.22 grains of pure gold), which was set in 1849 when the dollar coin of gold was first authorized, in accordance with the standards set in 1837, with pure gold worth $20.67/ounce.[13, 14]

Of course—with the legislative power "To coin Money" and "regulate the Value thereof" permanently *vested in Congress* by Article I, Section 8, Clause 5 of the U.S. Constitution—the President was and is wholly unable to regulate the value of money in the United States of America.

The dollar of the United States of America remains as last set by Congress, at 25.2 grains of gold 9/10^{ths} fine (23.22 grains of pure gold, with gold remaining at $20.67/ounce), with paper a tender *only in D.C.*

Wholly unable to exercise throughout the Union an expressly-delegated power of Congress, President Roosevelt could only thus create (or change) the dollar *of and for the District of Columbia.*

The dollar of the District of Columbia is NOT the same as the dollar of the United States (just as a Hong Kong dollar, Canadian dollar, or dollar of any of the other 13 or so jurisdictions which designate a dollar as their monetary unit, are not the same, either).[15]

By these 1934 actions, all the gold certificates owned by the Federal Reserve Banks which, on January 30, that had reached to (X) number of ounces of gold (in coin or bullion form [where every $20.67 dollar value of gold certificates reached one ounce of pure gold]), the next day, by the President's proclamation, suddenly held title to only (X x .61), approximately 40% less gold than the day before.

Thus, all the gold coin and gold bullion that the Federal Reserve Banks' certificates no longer reached, *finally became owned by the U.S. Government!*

FDR's Presidential Proclamation No. 2072 was the bill of sale giving the U.S. Government its "cut" of the most spectacular monetary heist in American history.

On January 30, 1934, every $20.67 face value of gold certificates secured *one ounce of pure gold* for the banks yet owning gold certificates. Every $1,000 face value of gold certificates owned by the Federal Reserve banks represented some 48.38 grains of pure gold.

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12. 15 5/21 grains of gold "nine-tenths fine" equates with 13.7142 grains of fine gold (pure gold) in one dollar, or gold valued at $35.00 per troy ounce.

$35.00 is derived by divided the number of grains in one troy ounce (480) by the number of grains of fine gold in one gold dollar (480/13.7142=35.00 [13.7142 was found, by multiplying 15 5/21 grains of 90% pure gold, by its gold content, of .900]).

13. March 3, 1849. 9 Stat. 397.

14. January 18, 1837. 5 Stat. 136. Sections 8 and 10 (pg. 137 and 138, respectively).

15. For more information and proof of a separate dollar for the District of Columbia (which District is NOT a "State" that is prohibited from coining money, emitting bills of credit, or making things a tender besides gold and silver [by Article I, Section 10, Clause 1]), please see the author's public domain books, *Monetary Laws of the United States, Dollars and nonCents,* or *Understanding Federal Tyranny*, all freely available electronically online at www.PatriotCorps.org).

On January 31, 1934, it took $35.00 face value of gold certificates to secure one ounce of pure gold. Every $1,000 face value of gold certificates owned by the Federal Reserve Banks on January 31st secured to the banks 28.57 grains of pure gold, with the remaining 19.81 grains owned by the government.

FDR's January 31st actions finalized the division of the proceeds from the Great Gold Heist of '33, with the Federal Reserve Banks keeping over 60% of the confiscated gold, and the U.S. Government getting nearly 40%.

FDR's gold con-fiscation escapades show the U.S. Government having been transformed into the supreme engine for confiscating American wealth, funneling it into fewer and fewer hands (notice the banks kept the lion's share of the ill-gained loot).

No wonder Americans are becoming impoverished as time marches on—government has been corrupted for the personal gain of those controlling the purse strings, and government's many friends. Do not discount the harm scoundrels may cause when they routinely corrupt law to disarm their victims and plunder wealth far and wide.

President Franklin D. Roosevelt's Executive Order No. 6102 was masterpiece of deception and trickery, designed for the benefit of a favored class, to relieve them of their contractual responsibility, where they should have been the ones to suffer from their earlier overplaying of their weak financial hand, betting too far, on an ever-expanding economy.

The legal swindle that was Executive Order No. 6102 could not have been pulled off with such a spectacular and involuntary transfer of wealth without the circulation of illegitimate legal tender paper currencies that were first implemented during the Civil War, which are legal tender only under the District of Columbia.[16]

16. As proving this claim is beyond the scope of this short newsletter issue, please see Matt Erickson's earlier-mentioned public domain books, all freely-available electronically, at www.PatriotCorps.org.

Incidentally, the Par Value Modification Act of March 31, 1972 changed the gold-equivalent value of the D.C. dollar to $38.00/ounce, with Section 2 saying:

> "The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold *for the purpose of issuing gold certificates pursuant to…the Gold Reserve Act of 1934.*[17]

Note the express wording, that $38 [per ounce] gold was "for the purpose of issuing *gold certificates* pursuant to...*the Gold Reserve Act of 1934."*[18]

Even decades after effectively prohibiting all persons from owning gold and gold certificates, here, gold certificates were expressly being upheld in use (by the Federal Reserve Banks).

It also should also be here mentioned, that the Act of September 21, 1973 changed the legal value of gold, to forty-two and 2/9ths dollars per ounce ($42.22/ounce), where it remains today, for gold certificate purposes.[19]

$42.22 per ounce of gold is where America's gold bullion is yet valued for government accounting purposes, honoring the outstanding gold certificates yet owned by the Federal Reserve Banks, where every $42.22 of government debt backed by a gold certificate still entitles them to receive one ounce of pure gold (despite gold being in the ~$1,800/ounce [D.C. dollar] spot price range, currently, for everyone else).

It should be expressly noted that no mention is made in the accounting of "Treasury-owned gold" as to the number of outstanding gold certificates owned by the Federal Reserve Banks, to show if the U.S. Government actually has any equity in the listed gold (which is doubtful).

17. 86 Stat. 116

18. Section 4 of the Par Value Modification Act specifically acknowledged that [as of 1972] government holdings of gold included gold that was "held as security for gold certificates").

19. 87 Stat. 352

This value of $42.22/ounce of pure gold even today is easily confirmed by viewing the U.S. Treasury-Owned Gold at the fiscaldata.treasury.gov website, and looking up the most-current information (currently, 11/30/2021 data), which may be viewed and downloaded (see graph below).

All the "U.S. Treasury-Owned Gold" is held at $42.22/ounce book value, because that is yet the rate which the Federal Reserve Bank-held gold certificates value gold.

For a fuller discussion on the legal shenanigans on America's monetary laws, please see Matt Erickson's public domain books, *Understanding Federal Tyranny* (which is also available in five audio tapes, or five videos) and/or *Dollars and nonCents*.

For the fullest discussion on America's monetary laws, please see his public domain book, *Monetary Laws of the United States*, in a two-volume set (Volume I is the narrative discussion, while Volume II contains the texts of America's monetary laws, in one place, for easier study).

As stated earlier, these books examine matters more fully, that are mentioned in this newsletter issue, perhaps in passing.

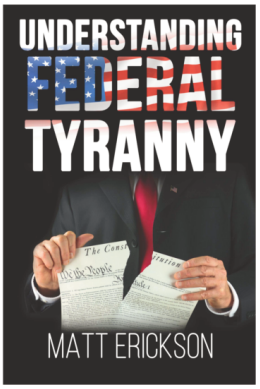
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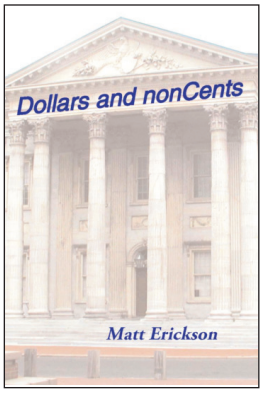
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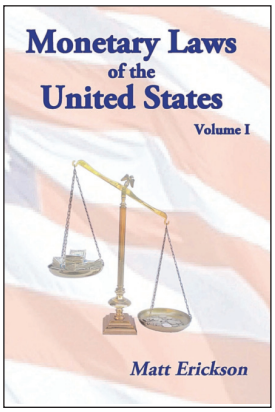
www.Issuu.com (higher resolution, than Archive.org)

www.Scribd.com/matt_erickson_6;

https://independent.academia.edu/MattErickson1).







U.S. Government-owned Gold, as of November 30, 2021

Record Date	Facility Description	Form Description	Location Description	Fine Troy Ounces	Book Value
11/30/2021	Mint Held Gold - Deep Storage	Gold Bullion	Denver, CO	43,853,707.28	$ 1,851,599,995.81
11/30/2021	Mint Held Gold - Deep Storage	Gold Bullion	Fort Knox, KY	147,341,858.38	$ 6,221,097,412.78
11/30/2021	Mint Held Gold - Deep Storage	Gold Bullion	West Point, NY	54,067,331.38	$ 2,282,841,677.17
11/30/2021	Mint Held Gold - Working Stock	Gold Coins	All Locations- Coins, blanks, miscellaneous	2,783,218.66	$ 117,513,614.74
11/30/2021	Federal Reserve Bank Held Gold	Gold Bullion	Federal Reserve Banks - NY Vault	13,376,987.72	$ 564,805,851.07
11/30/2021	Federal Reserve Bank Held Gold	Gold Bullion	Federal Reserve Banks - Display	2,393.35	$ 101,052.57
11/30/2021	Federal Reserve Bank Held Gold	Gold Coins	Federal Reserve Banks - NY Vault	73,472.28	$ 3,102,161.35
11/30/2021	Federal Reserve Bank Held Gold	Gold Coins	Federal Reserve Banks - Display	357.24	$ 15,083.36
				261,499,326.29	$ 11,041,076,848.85

Dollars per Ounce (Book Value Dollars/Number of **Fine Troy Ounces)** = **$ 42.2222**

Source: https://fiscaldata.treasury.gov/datasets/status-report-government-gold-reserve/u-s-treasury-owned-gold

The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 29: Coining Money and The Coinage Act of April 2, 1792

There are a number of original source materials available for studying the U.S. Constitution, including notes on the 1787 Constitutional Convention and articles written in favor of ratification *(The Federalist)* and against (the anti-federalist papers). The ratification debates held in the various State ratifying conventions are also very informative.

But, another source is the early legislation itself, because members of Congress in that era largely followed their constitutional obligations rather well.

One could argue the approach used by law schools everywhere — studying court cases (so-called *case "law")* — is a far inferior method (assuming an unbiased intent to learn the facts) because far too many cases too often show a partisan intent to alter the understanding and meaning of the Constitution (to support a "pliable" Constitution).

Perhaps in few other cases is this assertion as easily supported as an examination into the monetary Acts of Congress and the study of a few related court cases.

This newsletter issue starts off a multi-issue examination into the peculiar substitution of our circulating gold and silver coin with paper currency. This issue will examine the Coinage Act of April 2, 1792, to understand the enumerated power of Congress "To coin Money," and learn about the gold and silver coin authorized to be struck for our circulating tender for payment of debts.

The oddest feature of America's first Coinage Act involves the purity standard set for silver coins — 1,485 parts silver to 179 parts copper, for 1,664 parts total — as detailed in Section 13, which reads:

> "That the standard for all silver coins of the United States, shall be one thousand four hundred and eighty-five parts fine to one hundred and seventy-nine parts alloy; and accordingly that one thousand four hundred and eighty-five parts in one thousand six hundred and sixty-four parts of the entire weight of each of the said coins shall consist of pure silver, and the remaining one hundred and seventy-nine parts of alloy; which alloy shall be wholly of copper."[1, 2]

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1. April 2, 1792 Coinage Act, Section 13. (Volume I, *Statutes at Large,* Page 246 @ 249 [abbreviated: I *Stat.* 246 @ 249]).

See also: The public domain compilation of America's monetary laws; *Monetary Laws of the United States*, Matt Erickson, Volume II, Appendix D, Page 102, 2012. (freely available electronically online at www.PatriotCorps.org).

2. Copper was added as an alloy to "toughen" the coin, so the mixed-metal coin would circulate longer, without losing [relatively soft] silver content due to abrasion.

The copper alloy of the silver coins adds no monetary value to the silver coin.

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The initial silver standard set by the 1792 Act stands out further from the ordinary, when one considers that the purity standard set therein for gold coins, specified in Section 12, was a simple 11/12^{ths}-fine (11 parts pure gold-to-1 part alloy).[3]

The ultra-precise initial purity standard for silver coins — 1,485/1,664^{ths}-fine — stands as a formal testament to the exacting nature prescribed by Congress, in implementing members' constitutionally-enumerated power "To coin Money" and regulate its value.

Section 11 of the 1792 Act provides the first clue regarding the origin of the numerator — 1,485 — as it declared:

> "That the proportional value of gold to silver in all coins which shall by law be current as money within the United States shall be fifteen to one, according to quantity of weight, of pure gold or pure silver; that is to say, every fifteen pounds weight of pure silver shall be of equal value in all payments, with one pound weight of pure gold, and so in proportion as to any greater or lesser quantities of the respective metals."[5]

There are three primary commands in Section 11 that required the proportional value between gold and silver, to be 15-to-1. Every part gold was equal at law monetarily to 15 parts silver. Or, another way to say the same thing — equal-sized parts gave gold a 15-times greater dollar value than silver.

One command requiring a 15:1 proportional value between gold and silver is found at a "pound" level, with "every fifteen pounds weight of pure silver" being "of equal value in all payments" with "one pound weight of pure gold."

These words clearly show that monetary value is determined solely according to weight, of pure gold and pure silver (even in pound increments).

The same sentence goes on to detail that this 15:1 proportion is also to occur at "any greater or lesser quantities of the respective metals" (than the pound level).

The final command for a 15-to-1 proportion in Section 11 reiterates this ratio, at lesser quantities (than the pound weight), but in this case, specifically in struck coins. Section 11 specifies that "the proportional value of gold to silver in all coins which shall by law be current as money" must also be "fifteen to one."

A few hundred grains of weight in a coin is obviously a lesser quantity of weight of precious metals, than at the pound weight, of 5,760 grains to the troy pound.[6]

Section 9 of the 1792 Act provides additional evidence of the 15:1 ratio required by Section 11, and more-fully expounds upon the purity standards of Section 13.

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3. 11/12^{ths}-purity may also be described as 11/12^{ths}-*fine*.[4]

Gold is also often described in "carats" (though seldom monetarily) which examines the purity of gold in 1/24th-parts. 11/12^{ths} is mathematically equivalent to 22/24^{ths}, which is 22-carat gold.

The alloy in the gold coins was silver and copper (silver, to 50% of the alloy, with the remainder of copper).

Note that the silver/copper alloy of the gold coins does not add any monetary value to the gold coins.

4. "Fine" or "Fineness" refers to the purity standard of precious metal. 11/12^{ths}-fine, for example, means 11 parts pure metal (such as gold, in the case of the 1792 gold standard) and 1 part alloy. 11/12^{ths}-fine in decimal format equals .9166, which may also be written 916.66 (or 917, rounded), out of 1,000 parts.

5. April 2, 1792 Coinage Act, Section 11. (I Stat. 246 @ 248-249).

6. For readers unaccustomed to the troy weight system used to weigh precious metals, a "grain" is the smallest unit of weight.

There are 24 grains in a "pennyweight;" 20 pennyweights in a troy "ounce;" and 12 troy ounces in the troy "pound."

There are therefore 480 grains in a troy ounce and 5,760 grains in the troy pound.

Please note that there are 7,000 (of the same) "grains" in the avoirdupois pound used in standard American commerce, which avoirdupois pound is divisible by 16 ounces (so the avoidupois pound is just over 20% heavier than the troy pound).

A "grain" was originally equivalent to the average weight of a plump kernel of barley.

The "eagle" was the gold coin specified in Section 9 to contain 247.5 grains of pure gold, weighing, with alloy, a total of 270 grains. These coins with 247.5 grains of pure gold were named an "eagle," but then held monetarily "to be of the value of ten dollars or units."

With 240 grains in one-half of a troy ounce, there was just over one-half of a troy ounce of pure gold in the original 1792 ten-dollar gold eagle.

Since 247.5 grains involves a measure of weight and the eagle is a coin then-made current as money, all three mandates in Section 11 were triggered, requiring a 15:1 proportion between silver and gold.

Section 11 requires — at any given weight or value level — a proportional 15 times greater weight for pure silver as compared with pure gold (but realize circulating coins were always struck in standard gold and standard silver [i.e., gold or silver mixed with an alloy], for better protection against abrasion during circulation).

Since the 1792 Act specified that the ten-dollar gold eagle was to contain 247.5 grains of pure gold, it is appropriate to multiply this number — 247.5 — by 15, to see how much pure silver weight there must be in ten dollars of silver.

According to the principle thrice established by Section 11 and given the amount of pure gold in a ten-dollar gold eagle, there must therefore be precisely 3,712.5 grains of pure silver weight in silver coins whose value equals exactly ten dollars.

Since the specified weight for every silver dollar was specified in Section 9 to be 371 and 4/16ths grains (371.25 grains) of pure silver, ten of these silver dollars do precisely contain 3,712.5 total grains of fine silver.[7]

Thus, one finds that the gold-to-silver ratio established by Section 11 of the 1792 Act, of 15:1, was strictly and literally followed at the individual coin level, as Section 9 confirms.[8]

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7. April 2, 1792 Coinage Act, Section 9. (I Stat. 246 @ 248).

Section 9 of the 1792 Act specified the silver dollar to contain "three hundred and seventy-one grains and four sixteenth parts of a grain of pure silver, or four hundred and sixteen grains of standard silver."

Recall that Section 13 of the 1792 Act specifically set the silver standard at 1,485 parts of pure silver and 179 parts of pure copper, for a total of 1,664 parts, and that Section 9 specified 371.25 grains of pure silver in a dollar coin weighing 416 grains overall.

Working with fractions and numbers to the right of decimals is more difficult than working in whole numbers.

To get rid of fractions, one multiplies by the number that brings about a whole number.

In this case, to rid the fraction "4/16^{ths}" (or numbers to the right of the decimal, in ".25"), one multiplies by *four*.

Multiplying 371 4/16^{ths} (371.25) by four, equals 1,485.

1,485, of course, was the precise number of parts of pure silver specified in the standard for all silver coins by the 1792 Act.

Since the numerator in the fraction of 371.25/416 was multiplied by four, so too must the denominator 416 be multiplied by four, to keep the value of the fraction equivalent.

416 times four equals 1,664.

1,664 total parts minus 1,485 parts silver equals 179. Recall that Section 13 of the 1792 Act explicitly specified 179 parts copper alloy for the silver dollar.[9]

Therefore, the 1,485 parts in the purity standard for silver coins in 1792 comes not only explicitly from Section 13 of the 1792 act, but also mathematically from the clear principle thrice-mandated for strict proportionality between gold and silver coins in Section 11, and also given the pure metal weight of the coins as specified in Section 9, after getting rid of fractions/decimals.

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8. Since Section 9 of the 1792 Act made the half-eagle ($5) and quarter-eagle ($2.50) coins proportional in weight of gold to the ten-dollar eagle and the same section made the half-dollar, quarter-dollar, dime (then spelled 'disme'), and half-disme (the U.S. had silver half-dimes then) proportional in weight with the silver dollar, then all gold and silver coins remained in strict proportions, of 15 parts silver by weight for every part gold, at any given dollar (and cent) value or level.

One sees in the Coinage Act of 1792, that valuations between all monetary coins were all mathematically consistent and objective (after first and separately determining the actual market ratio, between gold and silver, which was then current in the marketplace).

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9. More than likely, neither number 179 and 1,664 were themselves targeted numbers, but both were simply derived as the product of the overall desired weight of the American dollar coin (~416 grains), given the weight of pure silver (371.25 grains) and then eliminating fractions to work in whole numbers.

The overall weight of the Spanish milled dollar certainly would be among the primary considerations Congress would look at when deciding to strike their own coin at the same value.

It is thus quite likely that after Congress determined 371.25 grains of fine silver for the dollar (it being precisely 15 times the weight of a dollar's equivalent of fine gold [24.75 grains]), that the next consideration would be the overall standard weight for their coin; they likely considered 416 grains as the best-suited for their overall needs.

412.5 grains (which equates with 90% silver when the pure-silver weight remains at 371.25 grains [which numbers and ratio would ultimately be designated in 1837]) was likely at that time simply too far below the total weight of that Spanish coin which would long remain in circulation as legal tender beside, and compete domestically with, the American dollar.[10]

The early government report writers reporting on the establishment of a mint wrote about the wide differences in weight and especially purity of the Spanish milled dollar. Secretary of the Treasury Alexander Hamilton wrote that "the results of various assays…being as various as the (number of) assays themselves."[11]

418 grains for the standard weight for the American dollar would not only have added two more grains of copper at additional weight and cost (but without additional value), but the resultant fineness of only .888 would have likely been considered as being too base for American coinage.

417 grains had the same issues, to a less extent, while 415 grains would have again been likely getting too far below the average weight of the Spanish dollar. 416 grains in the standard weight was likely a present compromise between past and future.

With 371.25 grains locked-in as the given weight of pure silver, the purity therefore became 371.25/416^{ths}.

Eliminating fractions/decimals would then make 1,485 parts of pure silver in 1,664 parts total.

Even after the Assayer's repeated complaints, of his difficulty conforming to the exacting purity standard for silver coins, Congress in 1794 refused to change it.

Members' strict adherence to honest and objective monetary principles meant they fully intended to honor their constitutional duty to strike honest coin under strict monetary standards, despite real-world and understandable concerns of competent mint staff.

It is important to realize that members of Congress determined monetary value by precise and proportional weight of pure gold and pure silver, within members' constitutionally-delegated power to coin money and regulate its value.

The 1792 silver standard had everything to do with keeping, literally, fifteen times as much silver as there was gold, at each and every dollar value level, and in each and every coin.

Knowing the purity standard of gold and silver coins allowed anyone with a scale to weigh their coins in standard silver or standard gold, and multiply that weight by the established purity standard, to individually determine actual legal value, which was established strictly according to precise weight of pure gold and pure silver.

It should be mentioned that copper cents and half-cents were also struck under the 1792 Act, but were not declared a tender, due to copper's impure nature, difficult at that time to precisely ascertain (as was necessary of a true monetary "standard").

Standard Unit of Value

Article I, Section 8, Clause 5 of the Constitution reads:

> "Congress shall have power…To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

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10. The Spanish milled dollar remained legal tender in the United States until 1857 (11 Stat. 163, February 21, 1857).

11. Alexander Hamilton's January 28, 1791 Report #24 to the House of Representatives on the Establishment of a Mint.

See: *Monetary Laws*, Volume II, Appendix C, Page 81, 2012. www.PatriotCorps.org.

This clause makes the monetary unit chosen within the discretion of Congress — the dollar — the Standard Unit of Value, the standard by which all things of value were to be measured.

It was no coincidence that the clause of the U.S. Constitution which empowers Congress to strike coined money also grants to Congress the express power to "fix the Standard of Weights and Measures."

Just as the "inch" and "foot" were ultimately fixed as standards for our measures of length or distance; just as the "ounce" and "pound" were made standards for our measures of weight or mass; just as the "pint" and "gallon" were made standards for our measures of liquid capacity; and just as the "second" and "minute" where established standards for our measure of time, the "dollar" divisible by tenths, hundredths and thousandths (milles) was made our Money of Account, our standard unit for the measurement of Value.

Just as distance, mass, capacity and time are not left up to measureless and meaningless phrases, *neither is our money, in and for these United States of America.*

Can one imagine the economic havoc if, for example, an avoirdupois pound of butter didn't always equate with 16 ounces, if one mile didn't always measure 5,280 feet, or if one gallon of gas didn't always equate with 128 fluid ounces? Imagine the injustice incurred by employees paid by the hour, but a particular employer could designate 90 minutes as his "hour."

Short measures always cause injustice — whether the shortage is due to ignorance, incompetence or fraud.

Thus, it comes as no surprise that the American economy has suffered horrible instability, ever since our measure was intentionally severed from its objective constitutional rudder, of 371.25 grains of fine silver (and proportional measures of gold).

Once the dollar used in commerce effectively became known as a slip of paper without objective meaning, value was left to flutter in the wind. A "standard" without tie to objective measure is no standard at all, by any measure of the word.[12]

12. A later newsletter will examine the devious declaring of a slip of paper a legal tender, showing that it necessarily relies on clever subterfuge for its effective implementation.

The only reason to undermine the objectivity in our country's legal standards is to give particular parties an unearned advantage, at the expense of everyone else. Legalizing theft is not and cannot be a legitimate constitutional objective and thus one may know that the nation's implementation of legal tender paper currency in 1862 necessarily rests upon a false (and unstable) foundation (and one that may be exposed to the purifying light of day by careful investigation).

Legal Tender Value — Weight & Purity

Strictly speaking, Congress in 1792 established the United States on a silver coin standard, along with a gold coin equivalency, effectively placing us on a bi-metallic coinage standard (gold certificates weren't issued until 1863, and silver certificates, in 1878).[13]

Although the 1792 Congress established the "dollar" as a coin with 371.25 grains of pure silver weighing 416 grains including its copper content, the coins struck at the mint at the dollar denomination still were not necessarily legally valued at that rate of one dollar.

Neither were gold coins necessarily valued at their legal rate, such as the "eagle" otherwise valued at ten dollars.

The actual lawful tender value of any given coin under the 1792 Act was determined solely based upon its actual weight of properly-fine gold and silver.

Section 16 of the 1792 Act read as follows:

> "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."[14]

One must realize that coinage methods of the time were rather crude, such as the Assayer's problem reaching the required purity standard imposed for silver, and also quite labor-intensive.

13. Gold certificates were first authorized by the Act of March 3, 1863, Section 5 (12 Stat. 709 @ 711). Silver certificates were first authorized by the Act of February 28, 1878, Section 3 (20 Stat. 25, @ 26).

14. April 2, 1792 Coinage Act, Section 16. (I Stat. 246 @ 250).

Each coin struck was mostly a work of art and its precise weight fluctuated slightly. Although coin blanks could be filed prior to striking if they were too heavy, their weights were less uniform, as compared with decades later, when technological advance made striking coins more of a science and less of an art.

While the 1792 Congress went to great lengths to ensure the precise purity of "every separate mass of standard gold or silver, which shall be made into coins at the said mint," members cared less about the uniformity of weight of any particular coin, figuring each owner of coin would weigh it or them, individually or in bulk, to determine value accurately.[15]

Since purity was very difficult to field-measure, Congress went to great pains to ensure it.

But since weight and therefore value, could be determined by individuals, businesses, and government officers by use of accurate balances and precise counter-weights, Congress was less strict in this regard.

The first U.S. silver and gold coins were not minted with any face value struck on them, because their declared face value didn't necessarily represent the coin's actual lawful tender value.

The original intent for U.S. coins was that they would pass at their actual weight in their standard fineness, rather than by "tale" (by their piece count, at their declared value).

Coins of full weight would pass at their stated value, but worn, clipped or improperly-struck coins would legally pass only at their measured weight and calculated value.

A dollar coin 99% of its proper weight would be valued only at 99 cents, rather than one dollar.

It was not until mint practices sufficiently advanced that all American coins finally had tolerances also prescribed for weight in 1837.[16]

15. *Ibid*, Section 18. (I Stat. 246 @ 250).

16. January 18, 1837 Coinage Act, Section 25. (5 Stat. 136 @ 140).

Gold coins were first prescribed weight tolerances in 1834.[17]

17. June 28, 1834 Coinage Act, Section 4. (4 Stat. 699 @ 700).

After 1837, light-weight coins would be pulled from circulation by the treasury and re-struck into full-weight coins by the mint, meaning all coins in circulation were soon of full and accurate weight.

While Americans today typically think of coins only at their given face value, by tale or count, the most demanding of early Americans looked to the measured weight of monetary metals to determine the actual legal value for their coins.

Substance and principles mattered, not the name of the unit, or its declared face value.

Under the 1792 standards, it was impossible to hold as a lawful tender anything without gold and silver, for money was valued only "according to quantity of weight, of pure gold and pure silver."[18]

But, just because the wording of future laws later changed, doesn't mean that fundamental constitutional principles for our money changed, under our unchanged Constitution.

Unfortunately, our money simply wasn't later as clearly protected as earlier, from our own monetary ignorance, even as it was yet under the same constitutional authority.

Tragically, the original safety net which at one time existed to ensure the lawful tender value of all money would be determined solely by weight and fineness of actual gold and silver (predominantly in coin form) was removed from the marketplace in 1837, as gold and silver coins were made a tender at their face or nominal value, even as the weight and purity of our legal tender money at that time came under stricter tolerances than ever before.[19]

The very perfection of the coins by 1837, and the appropriate government guarantee of that perfection, helped loosen the written protections that could later break free money from its inherent value (because of widespread monetary misunderstanding, not from changes in allowable federal power).

18. April 2, 1792 Coinage Act, Section 11. (I Stat. 246 @ 249).

While copper cents and half-cents were also struck, they were not declared a tender (for the impurity of copper at that time meant that it was difficult to precisely ascertain value).

That lawful tender money is valued only according to the weight (and purity) of gold and silver coin is acknowledged in Jefferson's 1791 notes on the establishment of a money mint (when he was Secretary of State), where he writes:

> "no money should be received, or paid at their treasuries, or by any of their officers, or any bank, but on actual weight."[21]

Section 19 of the 1792 Coinage Act prescribed the death penalty, to any mint officer who intentionally debased the purity or weight of the struck coins, for profit or gain, saying:

> "That if any of the gold or silver coins which shall be struck or coined at the said mint shall be debased or made worse as to the proportion of fine gold or fine silver therein contained, or shall be of less weight or value than the same ought to be pursuant to the directions of this act, through the default or with the connivance of any of the officers or persons who shall be employed at the said mint, for the purpose of profit or gain, or otherwise with a fraudulent intent, and if any of the said officers or persons shall embezzle any of the metals which shall at any time be committed to their charge for the purpose of being coined, or any of the coins which shall be struck or coined at the said mint, every such officer or person who shall commit any or either of the said offences, shall be deemed guilty of felony, and shall suffer death."[22]

The Second Congress was deadly serious, regarding the implementation of their solemn constitutional duty to strike honest coins, of measurable and defined weight, at their precise purity standards.

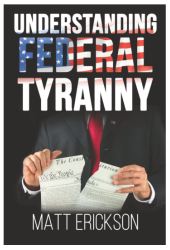
While the next few issues of this newsletter will examine monetary matters more fully, also see any of the following public domain books, freely available electronically at the www.PatriotCorps.org website, and a number of public sites, including:

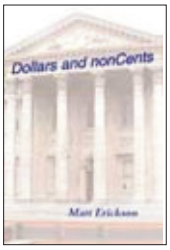
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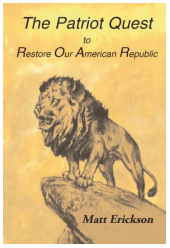
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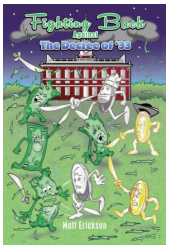
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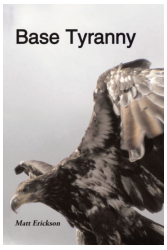














19. January 18, 1837 Coinage Act, Sections 8 - 11. (5 Stat. 136 @ 137 & 138).

An 1873 Act restored this sound principle for gold coins below their legal weight, which low-weight coins were again properly made "a legal tender at valuation in proportion to their actual weight."[20]

20. February 12, 1873 Coinage Act, Section 14 (17 Stat. 424 @ 426).

21. *Monetary Laws of the United State*s, Volume II, Appendix C, Page 77, 2012. www.PatriotCorps.org.

22. April 2, 1792 Coinage Act, Section 19. (I Stat. 246 @ 250).

FOUNDATION FOR Liberty

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by Matt Erickson
March 15, 2022



The BEACON *SpotLight*

A Study of Constitutional Issues by Topic

Issue 30: Regulating the Value of Money and the 1834 Coinage Act

The previous issue of *The Beacon Spotlight* examined the enumerated power of Congress "To coin Money," mainly by focusing on the Coinage Act of April 2, 1792.

The present issue will look at the enumerated power of Congress to regulate the value of money, primarily by examining the Coinage Act of June 28, 1834.

That isn't to say that the 1792 Coinage Act didn't also regulate monetary value, it's just that value was therein regulated only in regulation's simplest form.

"To…regulate" means to make something regular, as in consistent and uniform.

The 1792 Coinage Act made the value of money regular, consistent and uniform, by objectively defining the standard "unit" for the measure of subjective value—the "dollar"—as a coin of 371.25 grains of pure silver, in the standard weight of 416 grains, and then designating the subsidiary coins, in proportional weights, at proportional values.

The difference in value between the dollar and the subsidiary silver coins lay only in their weight. The half dollar contained exactly one-half of the amount of the physical silver, the quarter dollar one-quarter, the dime one-tenth, and the half-dime one-twentieth, all in the same standard of purity as the dollar.

And, Congress designated the gold coin of 247.5 grains of pure gold, weighing a total of 270 grains, as one "eagle," and valued it at $10.00, designating also the half-eagle and quarter-eagle, in proportional weights and values.

In setting the weight and purity of the different silver and gold coins, Congress simultaneously established the ratio of fine gold, to fine silver, at 15-to-1, which mirrored the international trade standard (market ratio) of the day. Every part of pure gold was made 15 times more valuable as the same amount of pure silver (or, saying the same thing another way, it took 15 times as much fine silver, to make the same dollar value, of fine gold).

Both gold and silver coins were struck and made a tender at their actual weights, according to their respective standards of purity.

Low-value copper coins were also struck, but were not made a tender, even as they were also given a monetary value (of one cent and a half-cent [1/100th of a dollar and 1/200th of a dollar], respectively).

While some people may argue that giving copper coins a monetary value without making them a tender largely made it a distinction without effect, note that debt holders could refuse payment in copper coins. For example, for a remaining debt of $6.21, the debt owner could demand payment in gold and/or silver to $6.20 and accept only the copper penny or two half-pennies for the extra $.01.

In this manner, the United States were able to enjoy the positive effects of three monetary metals, reaching to different-sized purchases, all in one money of account (the dollar, divisible by tenths, hundredths, and thousandths [milles]).

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But, choosing a bi-metallic lawful tender monetary system with fixed parity had a potential—or perhaps inevitable—pitfall, being the day when the fixed parity between the two metals became outdated or obsolete.

The momentum for parity change that began in the 1820s grew in the early 1830s. With silver production increasing worldwide, relative to (more stable) gold, the value of silver soon decreased some seven percent.

The workings of the 1834 Act changed the gold-to-silver ratio from 1:15 to 1:16, even as the 1834 Act did not directly set a legal ratio, as did the 1792 Act.[1]

The 1834 Act reduced the gold content of the gold coins (while maintaining their value), making gold more valuable in relation to the unchanged silver coins, to reflect real world valuation ratios of both metals.

As the disparity between the metals grew in the 1830s, more people began preferentially holding onto their gold coins and paying with silver, because gold was becoming increasingly undervalued at law. Others alternatively began selling their gold coins to bullion dealers for their melt value, which brought them more money than the coins' legal value.

When multiple forms of money with different market value otherwise have the same legal value, Gresham's Law indicates that people will preferentially spend the money they value least, and hold onto the money they value most. Paying for goods and services in the cheapest available money that will settle debts and accounts becomes second nature to most debtors.

The long-term solution for this reoccurring dilemma is to break the fixed legal parity between items with differing traits, which cannot remain forever fixed, due to their fundamental differences. The short-term solution is to correct the legal value to its market value.

Those who were able to save their gold coins were ultimately rewarded for their patience with the 1834 Coinage Act, as Congress finally corrected the outdated legal ratio of gold-to-silver, to their appropriate market rates. But, please do not understand that by this action, that Congress subsidized the owners of gold at the expense of those who owned silver (as the Supreme Court later deviously inferred, to support their intentional but deceptive actions to support legal tender paper currencies [to subsidize improperly those who emitted paper currency, impoverishing everyone else]).

Indeed, the 1834 Coinage Act removed the prior but unintended subsidy that silver coin owners had been indirectly receiving, by Congress holding too long the higher value of silver coins, than market forces would otherwise dictate. It simply took some time for Congress to figure out what to do and then act.

The framers and ratifiers of the Constitution never intended Congress should artificially support either metal at the expense of the other, so it was proper for Congress to act in 1834, to regulate properly the value between the various forms of money, back into market and legal parity.

By the actions of the 1834 Coinage Act, one may better understand the full and proper meaning of the express power of Congress "to regulate the value" of coins of gold and silver.

Failure to regulate adequately the legal value of gold and silver to their market rates earlier meant that to the extent which gold coins were either melted for their higher-value bullion content or were preferentially hoarded at home, the United States had in the interim shifted toward a silver coin standard, as gold was driven from circulation in the marketplace.

Having an off-balanced fixed legal parity ultimately proves worse than no established legal parity, because in the latter situation, both metals remain available for use, anytime a willing buyer and willing seller come to an individual agreement on the dollar-value of the coins of the other metal that are offered in trade. But, whenever the market price between the two metals varies from their legal ratio, the improperly-valued metal with a fixed low legal price greatly deters circulation of that metal, because, after all, it has a legal price and who wants to buy at a price higher than the law holds it out to be worth? But, ultimately, if owners of the underpriced metal won't bring it to the market to trade at the legal price, then people who want the undervalued metal at its legal price won't have much luck buying it.

1. June 28, 1834 Coinage Act. 4 *Stat.* 699.

371.25 grains fine silver/23.2 fine grains gold (per dollar) equals16.002 grains fine silver per grain of fine gold.

Article I, Section 8, Clause 5 of the U.S. Constitution details that members of Congress are expressly empowered "To coin Money" and "regulate [its] Value," but does not by this clause directly indicate which precious metal[s] may be coined into money and be made a tender in payment of debts.

However, Article I, Section 10, Clause 1 of this same Constitution prohibits the States from making "any Thing but gold and silver Coin a Tender in Payment of Debts," thereby indirectly indicating which metals Congress may strike as lawful or legal tender.[2]

With the States expressly denied the power to declare things a tender besides gold and silver coin, this clause acknowledges that the States may only declare gold and silver coin a tender. It does not directly offer the States a single choice between the two, as in only gold or only silver.[3]

By its words—"To coin Money," to "regulate the Value" of coined money, by directing that "gold and silver Coin" may be declared a tender and, lastly, by empowering Congress to "fix the Standard of Weights and Measures" (also from Article I, Section 8, Clause 5)—the U.S. Constitution empowers Congress to fix the legal value of gold-to-silver.

But, that is not to say that as the economy advances and becomes ever-more intricate and involved, that Congress could ever hope to keep up with this legal duty to accurately and adequately regulate the value of gold and silver in a fixed parity, within an ever-fluctuating and increasingly-sophisticated market. Of course, with a true coin standard, much of the wider economic swings Americans faced over the last century could have been drastically reduced, offering far greater monetary stability. Nonetheless, even if we had maintained honest money, it could yet be that greater financial velocity would have induced the country to move toward a single-metal coin standard.[4]

Before the Constitution was proposed, Superintendent of Finance Robert Morris in 1782 recommended to the Confederation Congress that they establish a single-metal currency, arguing that a:

> "money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only."[5]

Morris preferred silver, because:

> "Gold is more valuable than silver…but it is from that very circumstance the more exposed to fraudulent practices."[6]

Nearly a decade later, Alexander Hamilton—as Secretary of the Treasury under the ratified Constitution—came to an opposing conclusion, asserting that if only one metal was to be used:

> "it ought to be gold rather than silver…to render the unit as little variable as possible; because on this depends the steady value of all contracts, and, in a certain sense, of all other property."[7]

2. Some patriots make a great distinction between "lawful" tender and "legal" tender, as if on that inconsequential difference rests all of legal tender paper currencies. This author is not one of those people—he asserts the true difference is "where" they are being made a tender (whole U.S.A. vs. only D.C.). For more on this topic, please see the author's public domain books, *Dollars and nonCents* (pp. 17- 21) and *Monetary Laws of the United States* (pp. 56-90). www.PatriotCorps.org

3. The States reserved to themselves all the powers that they did not delegate to the Congress and the U.S. Government, except those things they directly prohibited themselves. Article I, Section 10 prohibits the States from making things a tender besides gold and silver coin and thus, by that prohibition, the States are prohibited from making things such as tobacco a tender, like they had earlier done. By its express wording, one could argue that by Clause 1 prohibiting everything else but gold and silver, that it therefore required both gold *and* silver coins being made a tender (in a single money of account; i.e., at a fixed parity).

4. Realize that in 1900, the gold dollar of 25.8 grains .900-fine became the Standard of Value, largely kicking silver to the curb, which silver dollar had been made the Standard of Value, in 1792.

5. See Superintendent of Finance Robert Morris' January 15, 1782 Report, in Matt Erickson's public domain book, *Monetary Laws of the United States*, Volume II, Appendix C, Pages 61-65. www.PatriotCorps.org

6. *Ibid*.

7. Alexander Hamilton's January 28, 1791 report No. 24, on the establishment of a mint, in Matt Erickson's public domain book, *Monetary Laws of the United States*, Volume II, Appendix D, Pages 79-98, @ 82. www.PatriotCorps.org.

But, Hamilton concluded the best approach was:

> "not to attach the unit exclusively to either of the metals; because this cannot be done effectually, without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise…To annul the use of either of the metals, as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation."[8]

Hamilton acknowledged the problems inherent in a dual-metal money system—that [arbitrage] traders would "select that species which it values least, to pay to the other, where it is valued most."[9] Hamilton also acknowledged that "dealers in money will…often find a profitable traffic in an exchange of the metals between the two countries."[10]

Hamilton postulated that the loss of the quantity of the circulating medium with only one monetary metal:

> "would, probably, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals; especially, if care be taken to regulate the proportion between them, with an eye to their average commercial value."[11]

In this last passage, Hamilton points to the "cure" for inevitable monetary metal imbalances, solved by *regulating* "the proportion between them, with an eye to their average commercial value."

While Morris fortuitously sought to avoid fixed legal ratios, Hamilton argued that by properly regulating their rate, according to their average commercial ratio, that the United States should be able to avoid the problems of bimetallism, while best ensuring an adequate supply of money, using both metals.

But, Hamilton alluded to difficulty, if sufficient care wasn't given, and the average commercial proportion between the two metals wasn't adequately regulated.

8. *Ibid.*, @ 83.
9. *Ibid.*, @ 84.
10. *Ibid.*
11. *Ibid.*, @ 83.

And, with that introduction, it is time to look at the Coinage Act of June 28, 1834, to see how Congress finally addressed the growing disparity, that was effectively forcing gold from circulation.

The 1834 Coinage Act left alone silver, which was appropriate, since the silver dollar was the Standard of Value—the unit measure in and for the measurement of value—and everything else of value should be regulated or adjusted to it.

In 1834, Congress regulated the value of gold coins to their market rates, making gold more valuable at law, like it was, worldwide. Members first made the old standard—of 270 grains of gold 11/12^{ths}-fine, per ten dollars—obsolete (or, in appropriate lingo, no longer "current" as money [no longer "current money"]).

Section 3 of the 1834 Act provided the new, higher-valuation-rate of the old gold eagles (and half- and quarter-eagles), in dollars (cents):

> "That all gold coins of the United States, minted anterior to the thirty-first day of July next shall be receivable in all payments at the rate of ninety-four and eight-tenths of a cent per pennyweight."[12]

A "pennyweight," recall, is equal to 24 grains, or 1/20th of a troy ounce (1 troy ounce equals 20 pennyweights or 480 grains).

"Anterior" means "front" or "before." The 1834 Act provided that gold coins minted before the Act's effective date were to be "receivable in all payments" at the new rate, of 94.8 cents per pennyweight of actual weight (standard weight [including the alloy]).

With the 270-grain 1792-era eagle equaling 11.25 pennyweights (270/24), the 270-grain 1792-era eagle became worth $10.665 (11.25 X 94.8 cents).

Here one sees that obsolete American 1792-era gold coins effectively lost their status as a tender at their original rate, and became valued in their weight as a commodity (which, as far as things go, isn't here bad).

The 1834 Act also designated a new $10 eagle, to contain 232 grains of fine gold, weighing 258 grains (232/258 = .899224 purity standard).

12. June 28, 1834 Coinage Act. 4 *Stat.* 699.

The 1792-era value of pure gold was in 1792 worth $19.39/ounce (10 dollars/247.5 grains pure gold X 480 grains/ounce [equating with $.0404/grain of pure gold {$10.00/247.5}]).

Under the 1834 Coinage Act, pure gold became valued at $20.69 per ounce (10 dollars/232 grains of pure gold X 480 grains/ounce), equating to $.04309/grain in 1834 ($10.665/247.5 [or also $10.00/232 {strictly speaking, 232 X .0430909 = $9.997—which, rounded to two decimal places, equals $10.00}]).

In both the 1792 and 1834 Acts, one sees in all instances that gold coins remained valued solely according to the weight of pure gold, no matter how many grains they actually contained.

The difference in monetary valuations between the 1792 eagle ($10.665) and the 1834 eagle ($10.00) in 1834 dollars, was due solely to the amount of pure gold in each (247.5 grains of pure gold vs. 232 grains of pure gold, respectively).

In 1834, the two different eagle coins of differing weights issued under differing Acts were given differing values, dependent upon the amount of gold therein.

The consistent theme of all these early coinage Acts—whether gold or silver were priced per pennyweight, per ounce, or per grain and whether they were valued in standard weight or in the weight of pure metal—was that legal value was ultimately determined solely according to the weight of precious metal, in a particular and designated standard of purity.

While the value of pure gold established in 1792 at $19.39/ounce rose to $20.69/ounce in 1834, that was the express and legitimate point of the 1834 Act—to re-orient the legal price of gold to its true market rate, relative to silver, which wasn't changed at law.

Strictly speaking, the 1834 Coinage Act could have simply rated the 1792-era gold coins at 94.8 cents per pennyweight of standard gold and stopped right then and there. There wasn't any real need to create a new lighter-weight gold eagle, still valued at $10.00, other than for convenience (which admittedly is important).

After all, designating new, lighter-weight gold coins in familiar dollar values ultimately meant that all the old gold coins struck over the previous 40 years would likely end up being re-struck into lighter-weight coins. Coinage historians have estimated that some 99% of all the gold coins struck under the 1792 Coinage Act were either melted into bullion before the 1834 Coinage Act, or melted soon afterwards, and restruck into new, lighter-weight gold coins.

To discard 40-years' worth of work—sending all those old gold coins back to furnace, to make new gold coins—was no minor thing, after all. But, looking to ease the circulation of gold coins by keeping them at convenient denominations is a worthwhile objective (if the new parity would long remain accurate, at least).

Under both the 1792 and 1834 Coinage Acts, each coin's lawful value was determined solely by weight and purity. Any coin that had been debased, clipped, or otherwise lightened—even when lightened by operation of law—was legally valued only at its true content of pure gold (or pure silver).

One could argue that the 1834 Coinage Act made the 1792-era gold eagles "foreign" to the 1834 gold coins, which brings up another of the enumerated powers of Congress.

Article I, Section 8, Clause 5 has one more power which hasn't been herein yet covered, which is that members of Congress were also given the express power to regulate the American value of foreign (gold and silver) coins.

The phase—"and of foreign Coin"—found in Art. I:8:5, points to the regulation of the American value of foreign Coin, within its words:

> "Congress shall have Power…To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

In the early days of the Republic, the United States had no gold and silver coin of their own. The States were not only broke—they were deeply in debt, without even a government mint to their name.

After all, the U.S. Constitution was proposed and ratified primarily because the debts incurred during the Revolutionary War (which enabled us to secure our freedom) weren't being regularly paid, and it was proper that a government capable of paying off those rightfully-incurred debts be established, if the earlier form of government proved ineffective to the task.

So, how did members of Congress begin to institute lawful money when the U.S. Government had none?

Answer: "slowly." Two factors eased the transition.

First, Section 14 of the Coinage Act of 1792 made it lawful for private citizens to bring their own bullion (or their owned foreign coin, or silver plate, etc.) to the mint, for free coinage into struck coins, saying:

> "it shall be lawful for any person or persons to bring to the said mint gold and silver bullion, in order to their being coined; and that the bullion so brought shall be there assayed and coined as speedily as may be after the receipt thereof, and that free of expense to the person or persons by whom the same shall have been brought."[13]

In this manner, people who had gold and silver could have coins struck by the mint, free of expense, at least if they were willing to wait for their bullion to be assayed and struck into coin (Section 14 allowed the mint to charge .5% for an alternate service, of giving depositors already-struck coins, without the depositor having to wait for their own bullion to be made into coins [at least when the mint had a ready stockpile]).

A second matter aided the flow of money early on and this was the express power of Congress to regulate the American value of foreign coins.

A 1793 Coinage Act regulated the American value of various foreign coins that would thereafter "pass current as money in the United States" and be "a legal tender for the payment of all debts and demands."[14]

For instance, "the gold coins of Great Britain and Portugal, of the present standard," shall be current as money at the "rate of one hundred cents" for "every twenty-seven grains of the actual weight thereof."[15]

With every 27 grains of British and Portuguese gold coins equating to one American dollar (100 cents), every 270 grains of British and Portuguese gold coins would therefore be montarily equal to ten dollars—the same as American gold coins.

From this equivalent rate, one can see that the purity standards of British and Portuguese gold coins were the same as the original American standard—11/12^{ths}-fine—even as the same value rate per weight of coin doesn't mean that British and Portuguese gold coins had the same overall weight as the American coins.

Section 1 also established the value of French and Spanish gold coins, of slightly-lower fineness. It took a little bit more weight of French and Spanish coins, to equal the same dollar value, as the American (and British and Portuguese) coins. The 1793 Foreign Coinage Act stated that "the gold coins of France, Spain and the dominions of Spain, of the present standard," shall be at the "rate of one hundred cents" for "every twenty-seven grains and two fifths of a grain, of the actual weight thereof."[16]

The American value for French and Spanish gold coins was one dollar for every 27.4 grains, equating with a 274-grain French or Spanish gold coin worth $10.00. This rate equates mathematically to a 90% gold purity standard, which is the same purity standard to which the U.S. would ultimately switch, in 1837.

Section 1 of the 1793 Act also gave the American rates of various silver coins. The Spanish milled dollar, for instance, was rated at 100 cents, as long as "the actual weight whereof shall not be less than seventeen pennyweights and seven grains."[17]

The minimum weight for the Spanish milled dollar was important, given their long circulation, because longer-duration circulation and wear would make old coins weigh less than when originally struck.

In the 1826 report on the assay of foreign coins, director of the mint Samuel Moore reports that:

> "The average loss on a silver currency, it appears, is nearly four grains of silver from the dollar, or about one cent in value in a period of fifty years. The loss on gold coin, it may be incidentally remarked, appears…to be not less than two per cent within the same period."[18]

13. Coinage Act of April 2, 1792. I *Stat.* 246.

14. February 9, 1793 Foreign Coinage Act.1 *Stat.* 300 (note it says "legal" tender, w/o issue [see footnote 2]).

15. *Ibid.*

16. *Ibid.*

17. *Ibid.*

18. *American State Papers,* Volume 5, Finance Series, Page 585 @ 589.

That a silver dollar typically loses only one penny's worth (one percent) of silver in 50 years of normal circulation, while gold coins lose about two percent over the same interval, shows that gold and especially silver coins hold up remarkably well in circulation.

Moore also commented that small silver coins "are in more constant action and lose proportionally more."[19]

In this 1793 Foreign Coinage Act, Congress gave the exchange rate between foreign and American gold in "cents per grain" (and silver coins, in "cents per pennyweights" and grains), directly acknowledging yet again that American legal tender money is but an amount and purity of gold or silver.

The various Coinage Acts of Congress show that it didn't matter where gold or silver were mined; it mattered little where the coins were struck; what mattered most was that coins were made of gold and silver of determinable purity and measured weight, so their legal tender value could be objectively determined in accordance with the designated monetary unit.

The rating of foreign gold and silver coin in American cents allowed us the output of foreign mints for all those coins that showed up on our shores—without cost and without the effort of striking them ourselves (needing only annual assays and then use of accurate scales [plus minor mathematical calculation at each trade [given their weights likely at odds with our own]).

This power of Congress—to regulate the American value of foreign coins—aided the supply of American money, before and until members of Congress were ever able to procure sufficient gold and silver coin production of our own.[20, 21]

The 1834 Coinage Act is a very important Act to understand, because the Supreme Court later misattributed false monetary theories against it, to deviously uphold legal tender paper currency, ultimately depriving Americans of both gold and silver coin.

Alexander Hamilton argued that using only one monetary metal would destroy the "office and character" of the other as money, reducing the non-used metal to the "situation of a mere merchandise." But, the U.S. Supreme Court intentionally sought later to deprive Americans of *both* metals and usher in a fiat paper currency without value.

Obviously, to destroy the "office and character" of only one precious metal is far better than destroying the office and character of *both* precious metals.

That the defects inherent in an effective bi-metallic monetary standard were later used by unscrupulous men to deprive Americans of a circulating money of both silver and gold has brought upon the United States untold calamity, & unfathomable repercussions.

Like so many other things wholly misunderstood, a careful examination into proper parameters of action allows one to gain or regain sufficient understanding, as even to be able to establish or restore lost principles and throw off false rule.

The study of American money will prove this assertion, as the next few newsletter issues remain on this vital topic (or, see Matt Erickson's public domain books on this issue, at www.PatriotCorps.org).

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19. *Ibid.*

20. It was several years after enactment of the 1792 Coinage Act, before the mint building was constructed, furnaces and presses erected, and coinage began.[22]

21. The primary drawback of foreign coins made current in the United States, of course, is that their foreign weights resulted in an odd-denomination American values, necessitating calculation for precise valuation (like the 1834 Act made the full-weight 1792-eagle worth the odd-denomination value of $10.665).

It should also be noted that private coinage also made significant impact, such as the widely-acclaimed private Bechtler Mint, in North Carolina. Private coinage had the benefit of usually being struck in American weights and values, for ever better results, over foreign coin.

22. President John Adams' July 22, 1797 Proclamation No. 6 (11 Stat. 755) details that:

> "coinage of silver at the mint of the United States, commenced on the fifteenth day of October, one thousand seven hundred and ninety-four, and the coinage of gold on the thirty-first day of July, one thousand seven hundred and ninety-five."

The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 31: The Coinage Acts of 1837, 1853 and 1873

While the two previous newsletter issues discussed coining money and regulating its value, by examining the Coinage Acts of 1792 and 1834, this newsletter issue will examine the Coinage Acts of 1837, 1849 and 1853, with the briefest mentions of Acts of 1873, 1878 and 1900, before beginning discussion in the next issue, on legal tender paper currencies first emitted in 1862.

In 1837, Congress rewrote the coinage law, going so far as repealing the earlier coinage Acts and parts of Acts which were inconsistent with the extensive new legislation.[1]

The most significant change from the perspective of this newsletter involved changing the silver standard and the gold standard—the mixtures or ratios of pure metal weight-to-total weight, including alloy.

In 1837, the old silver standard of 1,485/1,664^{ths}-fineness (.8924-finess) was changed to .900-fineness, which remained in use through 1964.[2]

But, even though Congress changed the silver standard in 1837, members didn't need to establish new monetary values for the old heavier silver coins, like they had to do with gold, in 1834.

The reason Congress didn't have to revalue the older silver coins is because monetary value in these United States was and is determined solely by the amount of pure metal, without any consideration for any alloy, and in 1837, the only change to the silver coins was in using less alloy.[3]

For example, the dollar coin in 1792 targeted 416 grains of standard silver. At its targeted weight, in 1,485/1,664^{ths}-purity, the 1792 dollar contained 371.25 grains of pure silver and 44.75 grains of copper (and proportionally less silver and copper, in the smaller, fractional coins, at proportional values).

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1. Coinage Act of January 18, 1837. 5 *Stat.* 136 @ 142, Section 38.

2. Note that from 1992 through 2018, 90% silver was also specified for the silver coins of the silver proof sets and also for the silver commemorative dollars.

In 2019, Congress began specifying that the silver content of these specialized coins "shall contain at least 90 percent silver," instead of simply designating "90% silver," as before.

This change to a minimum silver content allowed the mint to start striking the specialized coins in .999 silver (without alloy) that many customers preferred, while the overall weight of the coins remained at their historic weights (such as the dollar, at 412.5 grains [.859 troy ounces]).

3. For discussion on the cryptic "and is" comment, please continue reading the next few newsletter issues that will discuss the alternate creation of a legal tender paper dollar (for the District of Columbia), or any of the author's public domain books which cover the topic in greater detail, including *Understanding Federal Tyranny, Dollars and nonCents,* and *Monetary Laws of the United States*, at www.PatriotCorps.org

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With 900 parts silver out of 1,000 parts, meant that the new target weight for the 1837-dollar coin—412.5 grains—after deducting 1/10th of its copper alloy weight (41.25 grains), would still contain 371.25 grains of pure silver.

Since the amount of pure silver in the coins struck under differing standards stayed precisely the same, no revaluation regulations were needed and none were established.

The standard purity for gold again changed in 1837, also to .900-fineness, from the .8992-fine standard that had been imposed just three years earlier, in 1834 (which itself had been changed, from the 11/12ths-fineness [.9166] standard, of 1792).[4]

Congress also did not need to revalue gold coins in 1837, like they didn't also with silver, even though the target amount of pure gold changed again, in the 1837 Act.

The reason Congress didn't have to revalue gold coins in 1837, like members had to do in 1834, even though the target weight of pure gold again changed, is because the 1837 gold coins remained within the legal tolerances for weight and purity established by the 1834 Act.

In other words, the 1837 change was too small to trigger a revaluation requirement under the 1834 Act.

Since Congress didn't establish new monetary valuations for gold in 1837, it is appropriate to show they were not needed, given its importance.

Under the original 1792 Coinage Act, all coins of silver and gold were given legal values dependent upon their actual weight, of coins struck in defined standards of purity, with those values ultimately depending upon their weight of pure silver or pure gold.

Congress implemented precise standards for purity in 1792, but only issued target weights, without ever specifying minimum and maximum weight allowances.

Since purity was difficult to determine later, Congress went to great pains, even from the onset, to establish and ensure it within a narrow range (plus or minus 1/144th).

The legal value of every coin in 1792 was dependent upon its actual weight, rather than target weight. Value could easily be determined, simply by weighing the coin in its standard weight and then calculating its monetary value by the coin's known purity. Multiple coins of the same monetary metal and in the same purity could also be weighed in bulk, just as easily.

For example, if five gold coins, in various denominations, all struck under the 1792 standard, together weighed 945 grains troy, then one only needed to multiply that weight by the appropriate purity standard of .9166 to equal 866.25 grains of pure gold (which, by the 1792 equivalent rate of 24.75 grains of pure gold/dollar, equaled $35.00).[5]

Under the 1792 Coinage Act, the targeted face value of any coin did not necessarily equal its legal value, unless it was of full weight. If it was light of weight, it simply had a proportionally lower value. A silver dollar 98% of its target weight of 416 grains (i.e., 407.68 grains) only had a legal value of 98 cents, not 100, for instance.

In 1834, however, the art and science of striking coins was sufficiently advancing such that members of Congress could establish strict tolerances for weight for the gold coins covered by the Act, at plus or minus 1/500th. Even so, these 1834 gold coins were yet only made "receivable in all payments, when of full weight,

4. The .900 fineness remains in use today, on the $5 commemorative gold coins, which are also struck at their historic 1837 weight and fineness (the 1837 eagle was struck in 258 grains standard gold (232.2 grains pure), so the 1837 half eagle (and current $5 gold commemoratives) were (and are) struck in 129 grains standard gold (116.1 grains pure).

Alternatively, the American Eagle gold bullion coins—the popular 1-ounce pure gold, ½-ounce pure, ¼-ounce pure and 1/10th-ounce pure gold coins—are struck in the 11/12ths-fineness standard (.9166) of 1792, ever since their introduction in 1986 (the alloy is superadded to the coins' stated pure-gold weights, such that the ounce coin, for example, contains 1-ounce of pure gold, and has a total weight, with alloy, of 1.0909-ounces).

Incidentally, the American Buffalo gold bullion coins are struck in .9999-fine gold.

5. Of course, those same 945 grains of standard gold could also be divided by the 1792 equivalent rate of 27.0 grains of standard gold/dollar, also equaling $35.00, but the primary point is that the standard rate of 27.0 grains per dollar was strictly derived by only its pure gold content.

according to their respective values" and the 1834 Act still specified that "when of less than full weight, at less values, proportioned to their respective actual weights."[6]

While the 1792 Coinage Act had earlier established minimum and maximum purities for both gold and silver, at plus or minus 1/144th, the 1834 Act tightened those tolerances for the purity of gold, to plus or minus 1/384th.

In 1837, the new Coinage Act again tightened the tolerance for gold purity, to plus or minus 2/1,000ths (1/500th), and established a new tolerance for the weight of gold, in any-sized coin, to plus or minus ¼-grain.

The 1837 Act also established a weight deviation of plus or minus 1.5 grains in the silver dollar and the half-dollar; 1 grain in the quarter-dollar; and .5 grains in the dime and half-dime. The new tolerance for silver purity was set in 1837 at plus or minus 3/1,000ths.

Section 9 of the 1837 Act declared silver coins a tender at their face values, by saying:

> "And that dollars, half dollars, and quarter dollars, dimes, and half dimes, shall be legal tenders of payment, according to their nominal value, for any sums whatever."[7]

Section 10 of the 1837 Act covered the legal tender status of the gold coins, saying:

> "And that for all sums whatever, the eagle shall be a legal tender of payment for ten dollars; the half eagle for five dollars; and the quarter eagle for two and a half dollars."[8]

One should realize that while the protective wording of the earlier Acts was omitted, that was because the perfection of the new coins was expressly guaranteed to be struck within very tight tolerances, now both for purity and weight. In no way did the omission of the words mean that light weight coins could be struck and held a tender at a false level.

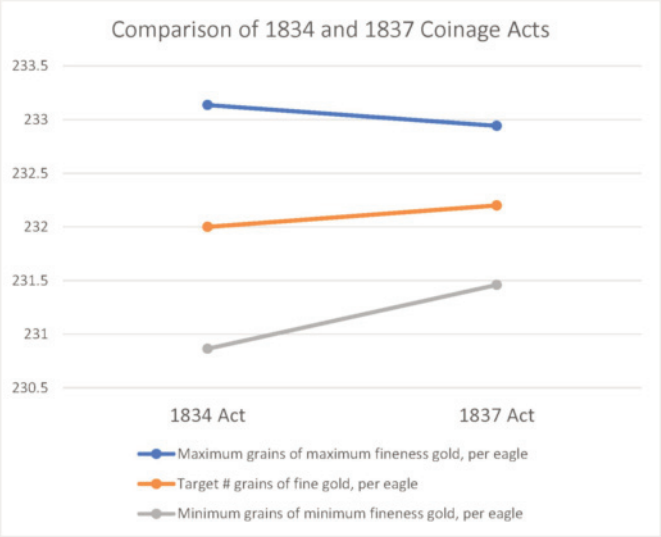
6. Coinage Act of June 28, 1834. 4 *Stat.* 699, Section 1.

7. Coinage Act of January 18, 1837. 5 *Stat.* 136 @ 138, Section 9.

8. *Ibid.*, Section 10.

The following charts sum up a comparison of $10 eagles under the Coinage Acts of 1834 and of 1837, at their maximum purity and maximum weight, and against their minimum purity at minimum weight, to prove why no revaluation calculations were necessary within the 1837 Act.[9]

	1834 Act	1837 Act
Maximum weight at maximum fineness gold, per eagle (in grains)	233.1359	232.9415
Target weight of fine gold, per eagle (in grains)	232	232.2
Minimum weight at minimum fineness gold, per eagle (in grains)	230.8642	231.4595



As the comparisons readily show (by the converging of the 1837 standards towards a targeted middle weight [even as the target rose slightly]), the new standards of 1837 at all times stayed within the old 1834 standards (the upper weight tolerance was lower in 1837, and the lower weight tolerance higher, than their 1834 counterparts—showing a narrowing range of allowable weight, at all times in 1837, within the wider range earlier set in 1834).

9. For the full discussion behind this summation, please see pages 141-151 of the author's 2012 book, *Monetary Laws of the United States*.

Since the new minimum and maximum weight and minimum and maximum purity of gold coins easily fell within the 1834 standards, the 1837 gold coins did not need new regulated values. What was legal in 1837 was easily within what had been made legal in 1834, where and when the full ramifications of gold-to-silver valuation rates had been considered. The 1837 gold coins were simply struck closer towards a guaranteed perfection.

Recall that the 1792 Coinage Act established every part of pure gold to be monetarily worth 15 parts of pure silver. Or, said another way, equal parts of pure gold and pure silver made the gold parts 15 times more valuable.

For example, one dollar's worth of pure gold—24.75 grains—was obviously equal monetarily in 1792 to one dollar's worth of pure silver, at 371.25 grains (24.75 X 15 = 371.25). To find silver's purity standard, one needed only multiply the pure silver weight (371.25) by 4 to get rid of the decimal, which resulted in 1,485 parts of pure silver (371.25 X 4 = 1,485). To this was added to the 179 parts of copper specified in the Act, to make the odd and even persnickety 1,485/1,664^{ths} silver standard (1,485 + 179 = 1,664).

Well, in 1837, all that convoluted figuring became obsolete, because both silver and gold were both finally established in the same purity standard—.900-fineness.

With the same purity standards, comparisons between the two metals would remain at all times proportional, whether one was comparing pure gold-to-pure silver or standard gold-to-standard silver.

Under the 1792 standards, one always had to differentiate whether any given discussion involved pure metals or standard metals, since the standards of the two monetary metals differed. But, once the two standards were both changed to .900 fineness, then the results were always proportional, whether speaking of standard metals or pure metals.

1849

In 1849, following the large discovery of gold in California, Congress established two new gold coin denominations—the new gold dollar coin and the new Double Eagle, the latter with $20 face value.[10]

10. March 3, 1849. 9 *Stat.* 397.

Establishing a new gold coin in the denomination of one dollar suddenly gave the silver dollar a run for its money as the Standard of Value.[11] It is appropriate to view the new gold dollar as a challenge to silver's lofty perch.

1853

As gold production escalated following the California gold discovery, soon the gold-to-silver market ratios effectively set at 16-to-1 in 1834 began reverting back towards the 15-to-1 legal ratio that had been intentionally set in 1792.

While the initial 15-to-1 gold-to-silver ratio lasted 42 years before it was changed, the 16-to-1 ratio of 1834 lasted only 19. The shortened period by which the fixed legal rate between gold and silver remained consistent with the market rate created internal tensions not easily ignored or adequately resolved.

After all, while some forty years of gold coin production began being melted in 1834 into new, lighter-weight gold coins, in 1853, some 60 years of subsidiary silver coin production would now be accumulated and melted, after new weights were implemented, for the [fractional] silver coins.

Recall, in 1834, Congress designated that new gold coins with the same name and original face value would thereafter contain less gold, while the older, heavier coins struck under the old standards were made obsolete and were given a new, higher monetary value, based upon their overall weight (94.8 cents per pennyweight of [1792] standard gold).

11. The gold dollar was struck from 1849-1889 and was terminated primarily to its diminutive size, by the Act of September 26, 1890 (26 *Stat.* 485).

The gold dollar was closer in weight and size to the half-dime, than the dime—showing its miniscule size.

The silver dime of 1837 weighed 41.25 grains overall, while the half-dime weighed 20.625 grains. The gold dollar of 1849 weighed 25.8 grains, in standard gold.

Note that the ultra-small half-dime was last struck in 1873 (the Coinage Act of February 12, 1873 didn't reauthorize the half-dime, having been effectively replaced with the larger five-cent nickel [75% copper/25% nickel] authorized by the Act of May 16, 1866 [14 *Stat.* 47]).

Carrying forward an 1834-perspective led an improperly-channeled school of thought, to take again the metal undervalued at law, and remove some of its metal content, to establish new lighter weight coins of the same face value. And, of course, fully following this path would also lead members of Congress to give the old, heavier coins a new higher value.

Except, in this case, in 1853, the metal undervalued at law was silver. But, silver coins were established as the Standard of Value, including especially that coin denominated as the primary "unit"—the "dollar."

Being the Standard, the silver coins weren't supposed to change. Everything else monetarily was to relate back to them, and, when relations changed, then these other things were to change, rather than the Standard. That, after all, is the purpose of a "Standard"—to relate all like things to it, as the designated measure of these like things.

Since members of Congress were and are, by Article I, Section 8, Clause 5 of the Constitution, empowered to coin money, regulate its value, and fix the Standards of Weights and Measures—including fixing the Standard for the Measurement of Value, the Dollar and its proportional fractions—by what reasoning should that fixed unit be changed, simply to avoid changing the secondary monetary metal, in this case?

But, if members of Congress were to leave alone the silver coins, that meant modifying the gold coins, essentially reverting back to the old weight standard of the 1792 gold coins, even if new gold coins in 1853 were to be struck in .900 fineness.

In other words, in 1853, the constitutionally-correct (but not necessarily economically-correct) school of thought would have again changed gold, now to put more gold into the coins, essentially putting back in what had earlier been taken out. And, one could easily argue that this path would have more closely followed the true historical precedent earlier set.

Indeed, remember that the gold coins were named "eagles" in the 1792 Coinage Act (and half- and quarter-eagles) and were simply given equivalent dollar values ("dollars" literally being coins of silver), based upon the then-current market prices of gold and silver. If the market ratio between them had been different in 1792, the weight of the eagles would have been different from the onset (the American silver dollar was modeled after the Spanish Pillar dollar, and thus it wouldn't have varied [greatly] from its 1792 standard).

When the dollar-equivalent value of gold changed in 1853, one could easily argue, again (like 1834), that members should have followed the real principle set by the 1792 Coinage Act (not the false principle, of always lightening the undervalued metal, as discussed above); i.e., that gold eagles again be given a new regulated dollar value, dependent upon current market relations between gold eagles and silver dollars.

Without any real surprise, when the time came time to reverse course from the 1834 change, Congress in 1853 didn't choose this option, of again changing the gold coins. Evidently, the argument went something like this—what person in their right mind would want to bring $100-face value of 1834 gold coins to the mint, just so they could get back some $93.50 face value of new, heavier-weight 1853 gold coins? Who would willingly participate in giving themselves *less* dollar value, for the *same* amount of gold?

After all, human nature invariably induces investors to hold too long onto losing positions, in hopes of a returning market, so they only face temporary paper losses, instead of selling at the bottom of the market and realizing permanent losses. Unrealized paper losses are much easier on fragile egos and don't figure into investing averages or lifetime investment returns.

Members of Congress were never expected to subsidize an undervalued metal to give it a false, higher legal value, but always to set the legal values to reflect the true market values.

Members didn't seem to realize that if they had simply left alone both the physical silver and gold coins (keeping the current weight and purity of the 1837 gold coins and keeping current the weight, purity and value of the 1837 silver coins), but in 1853 merely given the 1837 gold coins a new regulated monetary value (lower, in this case [~$9.38/eagle]), then they would have remained within their delegated authority of the Constitution and within sound monetary principles.

Congress only needed to give up having gold coins with rounded monetary values.

The growing shortage of silver coinage in the early 1850s made the small, everyday transactions more difficult, increasing pressure on Congress to do something, even if members weren't exactly sure what to do.

It is important to note that silver was coming back into its own in 1853. The value of silver was *rising*, in relation to a relative glut of newly-discovered gold, that was effectually flooding the market, dropping the value of gold, relative to silver.

By 1853, the relative weakness of the wrong strategy—always removing a portion of the undervalued metal, even when it was one metal one time and a different metal the next—was becoming increasingly apparent. Ever-lightening coins would create a whole other set of problems, especially as the velocity of financial transactions quickened.

Likewise, it became painfully obvious in 1853 that it had been far easier politically to remove gold content from new gold coins when the value of gold rose, than to put more in, when the relative value of gold fell in relation to silver.

Tragically, the "solution" Congress implemented in 1853 was equivalent to The Original Sin, monetarily speaking—members removed some 7% of silver from the small silver coins (the half-dollar, quarter, dime and half-dime), but destructively left alone the silver dollar.

For the first time in American history, in 1853, the values of legal tender silver coins were no longer strictly dependent upon proportional weights and proportional values. Some 7% of the silver was removed from the subsidiary coins, as their value remained as before, but the silver dollar remained at its 1837 weight, purity, and value.

While this may at first seem counterintuitive, leaving alone the silver dollar effectively killed silver as legal tender money, because no longer were all silver coins proportional in weight and value.

Silver could not remain our Standard of Value, even at a time when its value was climbing, relative to gold, when its coins directly violated the inviolable requisite of a "Standard"—proportionality.

Think of other objective standards, such as the measure of fluid volume. What if the "gallon" remained, but quarts, pints, cups, and fluid ounces all lessened from their current standards? What customer would want to buy a "half-gallon" of milk, named a "half-gallon," but containing some 7% less volume, than it should, compared with a gallon?

Destroying one standard drives people to other standards. Destroying American measures would drive commerce towards metric units, for example, if metric units remained proportional.

Well, destroying silver drove commerce towards gold.

Now, if members of Congress had removed the same proportion of silver from the dollar coin, as they had removed from the subsidiary silver coins, then all coins of silver would have remained proportional in weight and value. But, that, of course, would have set more firmly the bad precedent of always lightening the undervalued metal, which would lead to other problems.

The third option members did not choose, again, was simply to continue to strike the 1837 silver dollar and its fractional coins, all in proportional weights, purities and values, while also striking the 1837 gold eagle coins and its proportional fractional coins (and its multiple, the double eagle), but no longer attempting to keep the gold coins valued at rounded dollar figures.

Instead, from time to time, as needed, Congress would simply establish a current exchange rate between silver dollars and gold eagles (like the 1834 "94.8 cents/pennyweight" valuation rate for 1792-standard gold), in dollars. These simple valuation regulations would establish the legal rate by which the government would accept payments due in dollars, but paid in eagles, for the indeterminate future, until the rate was again later changed.

This unsought option would have fully instituted the silver standard, along with a fully-floating gold exchange rate, with the exchange rate changed as often as was necessary, to keep the two monetary metals in legal proportion to their market rates.[12]

The silver dollar would have remained our Money of Account, with all purchases, expenses, debts and obligations yet valued directly in dollars, tenths, hundredths, and thousandths.

But, gold coins could be readily spent into circulation, and bills paid with gold eagles, priced in dollars, at the time obligations were paid.

Since the U.S. Constitution vests or permanently fixes the power to regulate the value of coined money with Congress, please realize that this power to determine gold value in silver dollars may not be delegated to federal officials, such as officers in the Department of the Treasury. But, that doesn't mean that Treasury officials couldn't perform all the necessary financial calculations and mathematical tracking of pertinent factors, to inform members of Congress, with relevant information for members to make the determination.

The primary drawback for this option, which again should not be ignored, would be that the gold coins would invariably have odd valuations, such as the full weight 1792-era gold eagles being made worth $10.665 in 1834 (in 1853, the 1834 eagle would have been revalued roughly to $9.38).

In 1853, members of Congress sacrificed having coins in two monetary metals, both of full weight and good purity, primarily because gold coins wouldn't have a rounded value. Instead, they favored, directly or indirectly, a single-metal standard (gold), by which the coins of the second metal (silver, thereafter) largely became token coins, light of weight, even as even these token coins retained convenient rounded values ($.50, $.25, $.10, and $.05).

Giving up substance for convenience and giving up sound monetary principles for political expediency are hardly wise decisions, especially if or when they encourage other more harmful decisions later (such as the implementation of legal tender paper currencies).

Members could have left alone the 1837 weight, purity and value of the silver coins, and also left alone the 1837 weight and purity of the gold coins. In 1853, members of Congress only needed to change the gold coins' dollar values, as often as thereafter necessary.

12. While people may object to the perceived difficulty of gold being given a fluctuating exchange rate, please realize that given the stability of honest money, all things monetarily would have much more stable than what the United States experienced, after paper currency entered the picture and metals left. Sadly, our current monetary affairs are so far removed from the market ideal, that it may prove difficult to grasp, for modern-day citizens.

Largely to nullify their otherwise serious legal transgressions, Congress limited the legal tender status of their new, lighter-weight subsidiary silver coinage, to single transactions of $5.00.[13]

This perhaps unintended shift away from a silver standard, towards a gold standard, by itself, was not necessarily detrimental to the long-term financial future of the United States, if Congress hadn't made the far bigger transgression a decade later, of members implementing the first paper currencies.

Indeed, with silver's dramatic drop in value in the 1860s, 1870s, and beyond, one could even argue that the step taken in 1853 towards an otherwise more-stable gold standard monetary base was the best thing members could have fortuitously done (or, perhaps, that drop was partly the result of the 1853 sabotage).

The tragedy in 1853 from silver's perspective, however, were these 1853 lighter-weight subsidiary silver coins at their historic valuation rates, should have been legal tender to an unlimited degree, just as were the lighter-weight gold coins in 1834 (if the silver dollar had also been proportionally lightened).

This 1853 hit to silver ultimately provided a foretaste of future tragedies yet to come.

From its lowest American market price of gold-to-silver, of approximately 15-to-1 again in 1853, the ratio would begin to widen, once the Comstock Lode

13. Strictly speaking, it should be noted that the U.S. Constitution does not even directly empower Congress to call *anything* a legal tender (inferring, in Art. I, Sect. 10, that only *States* may declare gold and silver coin a tender). But, regulating monetary value would seem to imply making them a tender.

Strictly speaking, Congress may coin money, but only States may declare gold and silver coins a tender (States being expressly prohibited from making things *other than* gold and silver coin a tender implies them making gold and silver coin a tender).

Copper coins struck since 1792 weren't made a tender (even as they were given a value), due to their impure condition, difficult at that time to precisely ascertain.

By limiting the legal tender aspect of the light-weight, irregular silver coins, Congress limited their damage, even as one could argue that members should have entirely removed the legal tender status of any disproportionate silver coins.

in Nevada (then Utah Territory) was made public in 1859. Soon, very large amounts of silver were brought into production, sending the gold-to-silver ratios soaring, as silver value plummeted in relative terms.[14]

1873

Closing out the discussion of coin for the purposes of this newsletter study, in "The Crime of '73," Congress discontinued the striking of the venerable silver dollar of 412.5 grains of silver, 9/10^{ths} fine.

In its approximate place, Congress designated a new Trade Dollar, of 420 grains of .900-fine silver, for trade in the Far East (where the [slightly heavier] Spanish dollars had traded preferentially), even as the Trade Dollar was made a legal tender domestically, for payments to $5.00.[15]

While creating disproportionate silver coins in 1853 had been bad enough, discontinuing the esteemed silver dollar (which had been struck in 371.25 grains of pure silver since 1792) was a huge blow.

But, in 1878, the Trade Dollar was discontinued, and the 412.5-grain silver dollar of 1837 resurrected, and again made a tender at its nominal value ($1.00), to an unlimited dollar amount (except in contracts with gold clauses, which required payment in gold).

Section 1 of the 1878 Coinage Act stated:

> "That there shall be coined, at the several mints of the United States, silver dollars of the weight of four hundred and twelve and a half grains Troy of standard silver, as provided in the act of January eighteenth, eighteen hundred thirty-seven, on which shall be the devices and superscriptions provided by said act; which coins together with all silver dollars heretofore coined by the United States, of like weight and fineness, shall be a legal tender, at their nominal value, for all debts and dues public and private, except where otherwise expressly stipulated in the contract."[16]

Incidentally, this 1878 Act—a.k.a., the "Bland-Allison Act"—allowed the first silver certificates.[18]

In 1900, the gold dollar of 25.8 grains of gold of .900-fineness (23.22 grains of pure gold) was officially designated "the standard unit of value," even as the gold dollar coin was no longer struck.[20]

It is but another dark stain on open government, that devious Supreme Court justices helped self-serving Congresses pull off their spectacular political coup, of first emitting legal tender paper currencies and later eliminating both metals from circulation.

In justifying the new paper currencies, the Court in no small part justified its actions by exploiting the finer historical nuances found in the back-and-forth friction between proponents of silver and gold and the failed attempts of Congress to keep a legal parity between the two metals.

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14. Other than in 1919, 1968, and 1980, where the gold-to-silver ratio dropped fairly near to the 15-to-1 market ratios of 1792 and 1853, the gold-to-silver ratios usually rose to multiples of this low rate. Today, that ratio is about 85-to-1. The ratio hit its peak historically in March of 2020, when it hit in the range of 126-to-1.

15. Coinage Act of February 12, 1873. 17 *Stat.* 424.

16. Coinage Act of February 28, 1878. 20 *Stat.* 25.

Note that only silver dollars were made a tender for all debts and dues. By the 1853 Act, subsidiary silver coins remained legal tenders only "in payment of debts for all sums not exceeding five dollars."[17]

17. Coinage Act of February 21, 1853. 10 *Stat.* 160. Section 2.

18. Note, the first gold certificates were authorized by an 1863 Act. Section 5 of the Act read, in part:

> "That the Secretary of the Treasury is hereby authorized to receive deposits of gold coin and bullion with the treasurer...And certificates representing coin in the treasury may be issued in payment of interest on the public debt, which certificates, together with those issued for coin and bullion deposited, shall not at any time exceed twenty per centum beyond the amount of coin and bullion in the treasury: and the certificates for coin or bullion in the treasury shall be received at par in payment for duties on imports."[19]

19. March 3, 1863. 12 *Stat.* 709 @ 71. Section 5 [emphasis added]).

Note that gold certificates could be issued at the rate of 120% certificates for 100% amount of gold (gold certificates were never held to a 1:1 ratio, but instead, could be issued to 1.2:1, certificate-to-gold).

20. The gold dollar coin was discontinued by the Act of September 26, 1890 (26 *Stat.* 485).

Section 1 of the Act of 1900 stated:

> "That the dollar consisting of twenty-five and eight-tenths grains of gold nine-tenths fine… shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at the parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity."[21]

Depending upon the measuring stick, the United States switched over to the gold standard as early as 1853, although some would peg it in 1873, while the most strenuous holdouts would assert 1900.

Certainly, there was little of the silver standard left in 1873, although with the dollar of 1837 being reborn in 1878, it gave sufficient clout for some to argue 1900.

It is understandable why Congress would want coins of two monetary metals in one money of account—to reach a wide variety of prices while best ensuring a full and adequate monetary supply—but that doesn't mean members could ever effectively pull it off, at least without causing greater heartache.

The sad truth of the matter was that the long battle for full legal parity between gold and silver helped remove both of them from circulation. While proponents for gold and silver were fighting amongst themselves for supremacy, they ignored the far greater threat from paper money advocates.[22]

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21. March 14, 1900. 31 *Stat.* 45. Section 1.

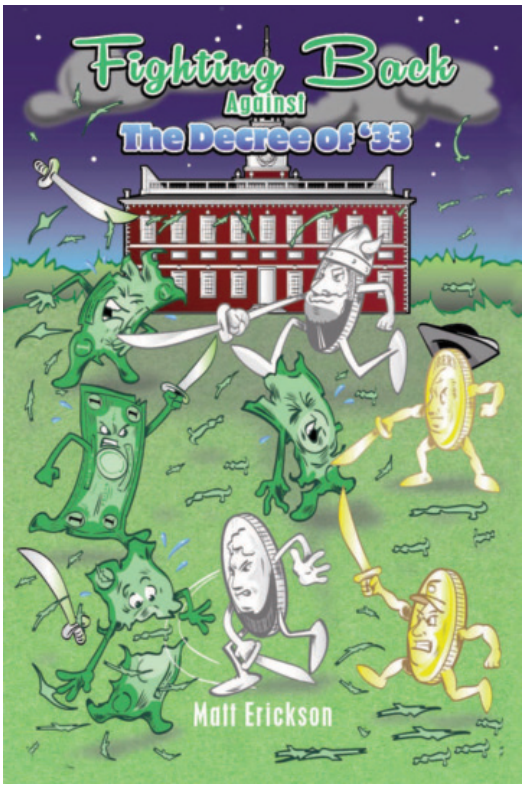
22. The author's 2018 novel *Fighting Back against The Decree of '33* put this monetary battle into cartoon form, where gold and silver finally stop fighting, at least long enough to unite against their common foe—paper currency (*Fighting Back* is perhaps one of the easier-reading of the author's books, which admittedly get fairly involved).

While it is perhaps understandable why advocates of gold or silver coin thought the battle was only with one another—given the Constitution's monetary parameters—paper money advocates soon laughed themselves all the way to the bank, as first gold and later were effectively thrown to the dust bin.

But, careful inspection into the devious tactics of Congress, American Presidents, and Supreme Court justices shows but a clever sleight of hand, allowing false assumptions to rule the day.

Thankfully, lies and fraud do not make for true laws, and a studied dive into devilish tactics used to support paper removes a false sanction of law from actions which have no place in these United States of America.

Making sense of government nonsense goes a very long way towards restoring our American birthright, of liberty and justice for all, by outlining the path for restoration of limited government under all of the U.S. Constitution, rather than just two clauses.



FOUNDATION FOR Liberty

Released into the Public Domain
by Matt Erickson
May 26, 2022

The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 32: Introduction to Legal Tender Paper Currencies

This 32nd Issue of *The Beacon Spotlight* begins a discussion on legal tender paper currencies.

But, before examining the current crop, emitted in one form or another since 1862, it is appropriate to examine the previous emission, which began shortly after the battles of Lexington and Concord at the onset of the Revolutionary War.

Bills of Credit

On June 22 and 23, 1775, the delegates of the 12 States, which began meeting in May in the Second Continental Congress, began funding efforts, by emitting bills of credit.[1, 2]

In issuing the first paper currency (which soon became commonly known as Continental Currency), Congress resolved:

> "That a sum not exceeding two millions of Spanish milled dollars be emitted by the Congress in bills of Credit, for the defence of America…[in] the form…as follows…This bill entitles bearer to receive [x] Spanish milled dollars, or the value thereof in gold or silver, according to the resolutions of Congress, [first] held at Philadelphia, on the 10th of May, A.D. 1775."[3]

The chart below lists the resolution dates, authority citations and amounts of Continental Currency authorized to be emitted by the Second Continental Congress, which amounted to $231,552,775.

1. Georgia (as a whole) did not approve delegates to attend until July 20th (as the colony held out hope for Great Britain to help resolve their land disputes with the Cherokee and Creek Nations). The Georgia delegates didn't arrive in Philadelphia until September [although Lyman Hall, nominally representing St. Johns Parish, Georgia, attended beginning May 13th]).

2. Bills of credit—paper currency—are written documents payable to the bearer, redeemable in the future, nominally in hard money and at face value. They didn't earn interest, at least as people today typically understand the paying of interest (after the fact).

There are two primary ways to figure interest.

If interest is collected after the fact, it is simply added to the principal according to the agreed-upon terms and rate. For example, if $100 is loaned at 6% simple interest for one year; at the end of one year, a total of $106 is due.

Conversely, interest may be collected as time passes/up front.

If the issuer of a $100 note agrees to the payment of 6% interest in one year, he may discount that note up front and accept $94 and 34 cents in goods or money, being responsible for the repayment of $100 in one year.

Discounting greases the skids for transfering debt instruments between creditors, allowing each holder the precise amount of interest due, dependent upon the time held/time to maturity (here, ignoring additional discounts due to the likelihood of default).

The early banks were long known as offices of "discount and deposit," for their discounting of currency/securities to their market values and for their accepting customer deposits, for safekeeping/investing.

3. Volume 2, *Journals of the Continental Congress,* Pp. 103-106.

FOUNDATION FOR Liberty

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June 21, 2022

Statement of Emissions of Continental Currency			
	Journals of the Continental Congress		Amount of Currency Authorized
Date	Vol. #	Page #	
June 22, 1775	2	103	$2,000,000.00
July 25, 1775	2	207	$1,000,000.00
November 29, 1775	3	390	$3,000,000.00
February 17, 1776	4	157	$4,000,000.00
May 9, 1776	4	339	$5,000,000.00
July 22 & August 13, 1776	5	599, 651	$5,000,000.00
November 2 & December 28, 1776	6	918, 1047	$5,000,000.00
February 26, 1777	7	161	$5,000,000.00
May 20, 1777	7	373	$5,000,000.00
August 15, 1777	8	646	$1,000,000.00
November 7, 1777	9	873	$1,000,000.00
December 3, 1777	9	993	$1,000,000.00
January 8, 1778	10	28	$1,000,000.00
January 22, 1778	10	82	$2,000,000.00
February 16, 1778	10	174	$2,000,000.00
March 5, 1778	10	223	$2,000,000.00
April 4, 1778	10	309	$1,000,000.00
April 11, 1778	10	337	$5,000,000.00
April 18, 1778	10	365	$500,000.00
May 22, 1778	11	524	$5,000,000.00
June 20, 1778	11	627	$5,000,000.00
July 30,1778	11	731	$5,000,000.00
September 5, 1778	12	884	$5,000,000.00
September 26, 1778	12	962	$10,000,100.00
November 4, 1778	12	1100	$10,000,100.00
December 14, 1778	12	1218	$10,000,100.00
February 3, 1779	13	139	$5,000,160.00
February 19, 1779	13	209	$5,000,160.00
April 1, 1779	13	408	$5,000,160.00
May 5, 1779	14	548	$10,000,100.00
January 14 & May 7, 1779	13/14	64/ 557	$50,000,400.00
June 4, 1779	14	687	$10,000,100.00
July 17, 1779	14	848	$5,000,180.00
July 17, 1779	14	848	$10,000,100.00
September 17, 1779	15	1076	$5,000,180.00
September 17, 1779	15	1076	$10,000,080.00
October 14, 1779	15	1171	$5,000,180.00
November 17, 1779	15	1285	$5,000,040.00
November 17, 1779	15	1285	$5,050,500.00
November 29, 1779	15	1324	$10,000,140.00
			$241,552,780.00 [4]

4. Actual Total: $231,552,775.00.[5]

5. The $241,552,780 figure is $10,000,005.00 too high, because $10,000,000 of the issuance authorized on January 14, 1779 (out of the $50,000,400 therein authorized) replaced $5 million of the emissions of May 20, 1777 and $5 million of the emissions of April 11, 1778, which were taken out of circulation and destroyed by order of Congress, on January 2, 1779 (13 *Journals of the Continental Congress* , pp. 21, 22), due to their excessive counterfeiting by "our enemies at New York" and $5 was never emitted (see the May 7, 1779 Resolution [14 *Journals* 553 @ 557], due to a change in denominations authorized.

Total authorization for the standard bills of credit emitted under the Second Continental Congress therefore amounted to $231,552,775, but note also that a minor amount of new tenor (less-inflated) bills were also (more-responsibly) emitted in 1780 (see March 18, 1780 Resolution [16 Journals 264 – 267]).

Source: *American State Paper* s, Finance Series, Volume 5, pg. 763 @ 764. 20th Congress, 1st Session. House Document # 839 "*Amount of Continental Money Issued during the Revolutionary War* ..." , 1828.

Paper currency, due to the ease of issue, is especially prone to over-emission, which quickly causes monetary debasement, wherever the bills circulate.

At every moment, then—depending upon the productivity of the printing presses—purchasing power is taken from the value of the bills earlier printed, like a hidden tax gobbling up everything in its path.

With a steep fall in value due to over-emission, Congress took futile steps to support the failing currency. Try as Congress may, it was beyond their power to uphold its value, because they couldn't redeem the currency in silver or gold, as promised.

On January 11, 1776, Congress resolved:

> "That if any person shall hereafter be so lost to all virtue and regard for his country as to 'refuse to receive said bills in payment,' or obstruct or discourage the currency or circulation thereof, and shall be duly convicted…such person shall be deemed, published, and treated as an enemy of his country, and be precluded from all trade or intercourse with the inhabitants of the colonies."[6]

Not only did calling people unpleasant names not stop the steep discounting of the Continental Currency, nor did attempts at asset forfeiture. On January 14, 1777, Congress went so far as to resolve:

> "That all bills of credit, emitted by the authority of Congress, ought to pass current in all payments, trade and dealings, in these States, and be deemed in value equal to the same nominal sum in Spanish milled dollars; and that whosoever shall offer, ask, or receive more in the said bills for any gold or silver coins, bullion, or any other species of money whatsoever, than the nominal sum or amount thereof in Spanish milled dollars, or more, in the said bills, for any lands, houses, goods, or commodities whatsoever, than the same could be purchased at of the same person or persons in gold, or silver, or any other species of money whatsoever; or shall…refuse to sell the same for the said continental bills; every such person ought to be deemed an enemy to the liberties of these united States, and to forfeit the value of the money so exchanged, or house, land, or commodity so sold or offered to sale."[7]

The resolution—in admitting that "bills of credit… *ought to pass current* in all payments"—all but admitted that the delegates were impotent to enforce the matter.

The Continental Currency of the Revolutionary era soon became worthless, such that the phrase "Not Worth a Continental" left an indelible mark on the minds of all those who went through it (including the many delegates who later attended the Constitutional Convention of 1787, as well as the delegates of the various State ratifying conventions).

Lotteries

Other methods for raising government funds were sought and tried, including a national lottery, of November 18, 1776.[8]

Had all the tickets from the four successive lotteries been sold, $10 million would have been raised. Congress would have received $1.5 million. The remaining $8.5 million was to be earmarked to be paid out in prizes—$3.1 million in currency, and $5.4 million would be deferred for five years, with annual interest payments due the winners.

$1.5 million in cash and $5.4 million in five-year loans would have been a successful fund-raising scheme, had the targeted sales figures been reached. Sales were lackluster, however, because people either opposed gambling, were frugal, or, perhaps, simply distrustful of the ultimate value of their winnings should they ever win (during this period occurred some of the greatest monetary devaluation of the currency).

Loan Office Certificates

The first borrowing of money in a more formal nature consisted of Loan Office Certificates. These certificates were first issued on October 3, 1776, when Congress authorized the issuance of $5 million.

These certificates differed from Continental Currency in two important ways. First, they bore interest, initially at four percent per annum.

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6. Volume 4, *Journals of the Continental Congress,* Page 49. Italics added.

7. Vol. 7, *Journals*, Page 33 @ 35 – 36.

8. Vol. 6, *Journals*, Page 957 @ 959 – 961.

Secondly, they were issued in amounts between $200 and $10,000 (quite large sums of money for the day). Loan Office Certificates did not circulate as money, but were investment vehicles.

Loan offices were directed to be established in each State by the October 3rd resolution, for convenience of buyers and lenders and to keep track of the money lent and the certificates issued.

Commissioner of Army Accounts Certificates

A close relative of the Loan Office Certificates were certificates issued by the Commissioner of Army Accounts (for war materiel and supplies).

The interest-bearing Loan Office Certificates and Army Certificates were issued more moderately as compared with Continental Currency, yet they also suffered an extensive amount of depreciation.

Besides issuing various government securities including bills of exchange, Congress sought other ways to support the war effort.

Bounties and Prizes

Bounties were offered to aid enlistment. On September 16, 1776, Congress, in enlisting 88 battalions, resolved:

> "That twenty dollars be given as a bounty to each non-commissioned officer and private soldier, who shall inlist to serve during the present war, unless sooner discharged by Congress:
>
> "That Congress make provision for granting lands, in the following proportions: to the officers and soldiers who shall so engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy:
>
> "Such lands to be provided by the United States, and whatever expence shall be necessary to procure such land, the said expence shall be paid and borne by the states in the same proportion as the other expences of war, viz.
>
> "To a colonel, 500 acres; to a lieutenant colonel, 450; to a major, 400; to a captain, 300; to a lieutenant, 200; to an ensign, 150, each non-commissioned officer and soldier, 100."[9]

Granting lands to soldiers and officers helped ease the necessity for ready cash.

It wasn't until October 22, 1787 that Congress (under the Articles of Confederation) finally designated the public lands from which the military land warrants would be issued to fulfill these bounties:

> "*Resolved*, That a million of Acres of land… be reserved and set apart for the purpose of satisfying the military bounties due to the late Army."[10]

The reason that it took four years after the conclusion of the war to even indicate the location from where these lands would be granted (within the bounds of the territory "North West of the River Ohio") is that many factors had to be settled. State cessions of un-apportioned lands to the United States had to be completed; Indian claims of possession had to be extinguished; territorial government had to be set up (via the Ordinance of 1787); land offices established and manned; lands surveyed and roads opened.

The bounties helped, but they still constituted an expense to a woefully-underfunded Congress.

Prizes, alternatively, cost the United States nothing—for they consisted of assets of the enemy. The capture of enemy ships provided seamen strong financial incentives while easing their burdens from lack of regular military pay.

On January 6, 1776, the Continental Congress issued the following resolve declaring the proportions of prizes to be divided amongst the crew of a successful naval operation. The resolution read:

> "*Resolved*, That the Commander in chief have one twentieth (part) of the said allotted prize-money, taken by any ship or ships, armed vessel or vessels, under his orders and command.
>
> "That the captain of any single ship or armed vessel, have two twentieth parts for his share, but, if more ships or armed vessels be in company when a prize is taken, then the said two twentieth parts to be divided amongst all said captains.
>
> "That the captains of marines, lieutenants of the ships or armed vessels, and masters thereof, share together, and have three twentieth parts divided among them equally, of all prizes taken when they are in company.
>
> "That the lieutenants of marines, surgeons, chaplains, pursers, boatswains, gunners, carpenters, the masters' mates, and the secretary of the fleet, share together, and have two twentieth parts and one half of one twentieth part divided amongst them, equally of all prizes taken when they are in company.
>
> "That the following petty warrant and petty officers, viz. (allowing for each ship, six midshipmen; for each brigantine, four midshipmen, and each sloop, two midshipmen, one captain's clerk, one surgeon's mate, one steward, one sailmaker, one cooper, one armourer, two boatswain's mates, two gunner's mates, two carpenter's mates, one cook, one cockswain, two serjeants of marines for each ship, and one surgeon for each brig and sloop) have three twentieth parts divided among them equally, and when a prize is taken by any ship or vessel on board of which the Commander in chief is, or in company, then the Commander in chief's cook or cockswain to be added to this allotment, and have their equal shares with these last mentioned.
>
> "That the remaining eight twentieths, and one half of a twentieth, be divided among the rest of the ship or ship's companies, as it may happen, share and share alike.
>
> "That no officer or man have any share but such as are actually on board their several vessels, when any prize or prizes are taken, excepting only such as may have been ordered on board any other prizes before taken, or sent away by his or their commanding officers."[11]

Naval ships, of course, were built and outfitted at the expense of the United States.

9. Vol. 5, *Journals*, Page 760 @ 762-763.
10. Vol. 33, *Journals*, Page 695 @ 695-696.
11. Vol. 4, *Journals*, Pp. 36-37.

Even better than bounties and naval prizes, though, were the privateers who built and outfitted private ships of war at their own expense, who were given Letters of Marque and Reprisal by Congress (see Article I, Section 8, Clause 11 of the [later-ratified] Constitution). With this license, the captain and his private crew would be authorized by the United States to seek prizes of the enemy, under proper regulations, as their pay. If they were captured by the enemy themselves, the Letters provided them the protection of the United States—they were to be treated as prisoners of war rather than as common pirates.

Military Pensions

Like any good bankrupt with greater need than money, Congress continuously sought to pay in the future what they could not afford in the present. Thus, Congress developed their first military pensions, hoping to prolong some of the expense until after the war concluded and peace and prosperity returned.

On May 15, 1778, Congress resolved that any military officer who continued in service to the conclusion of the war would receive half pay for seven years following the war. Three qualifications were given—the first being "if they live so long."[12] They also had to actually reside in "some one of the United States."[13] The final requirement was that they could not later hold any office of profit under the United States or any of them (no "double-dipping"—no drawing of a military pension while also drawing a civil government salary).

Non-commissioned officers and soldiers were to receive "further reward of eighty dollars at the expiration of the war."[14]

On August 11, 1779, Congress resolved that officer's half-pay would "continue for life" and removed the restriction preventing double-dipping.[15]

On January 17, 1781, Congress extended benefits to the hospital department staff.[16]

12. 11 *Journals* 501 @ 502.
13. *Ibid.*
14. *Ibid.*
15. 14 *Journals* 944 @ 949.
16. 19 *Journals* 64, @ 68-69,

On March 22, 1783, Congress authorized five years full pay in money or interest-bearing securities in lieu of half pay for life (the option determined by military lines in the separate States [rather than by individual decisions of the officers in those lines]).[17]

Requisitions

With the preceding means still insufficient to meet their needs, the last means to discuss is military requisitions (the polite way to say military confiscations).

An April 18, 1781 Congressional report, given by the committee appointed "to estimate and state the amount of debts due from the United States…" provided a cursory look at the methods attempted by Congress to raise sufficient revenue. After explanation of failed method after failed method, the report stated:

> "The army was in such extremity for want of provisions, that the Commander in Chief was reduced to the sad alternative, either to suffer it to disband, or to collect supplies by military force. He preferred the latter, and the inhabitants of New York and New Jersey, though they felt the injury, saw the necessity, and patiently submitted."[18]

Perhaps sadder words could not be written showing the level of desperation undoubtedly felt by General Washington—to be reduced to taking by force that which was needed for the war effort. Government securities, of course, were given to the owners, pledging future payment, but everyone knew that repayment would be drastically discounted from face value, due to the severe depreciation of the times.

On March 18, 1780, the delegates of the Second Continental Congress passed a resolution requesting the States:

> "pass laws enabling Congress to levy an impost of one per cent on all exports and imports, as a fund for sinking the emissions for carrying on the present war."[19]

Nothing came of this resolution, however.

17. 24 *Journals* 206 @ 207-210.
18. 19 *Journals* 402 @ 410.
19. 16 Journals 261.

The Articles of Confederation and Perpetual Union, first proposed in 1777, were finally ratified in 1781, once New York (as one of seven States with unpopulated western lands stemming back to its original colonial charter) agreed to cede its unapportioned western lands to Congress, to fund the war effort, on behalf of all the States.

With New York establishing the precedent, Maryland (without any such lands) finally withdrew its protest and approved, as the last of the States, the Articles of Confederation.

Seven of the 13 original States (Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina and Georgia) had unoccupied, western lands stemming from their colonial charters. The remaining six argued that those unpopulated lands could not possibly be freed from British rule except by the common efforts of all the States, and thus, the eventual disposition of the lands into private ownership should serve to reduce the common war debts of all the States.

But, the Articles of Confederation also lacked the direct means for Congress to lay and collect taxes, duties, imposts and excises, and the debts continued to accumulate, even as the war dwindled in 1781, and was over in 1783.

The Articles allowed Congress, when nine States were in agreement, to lay requisitions upon the States for needed funds. Dealing with States sovereign in nature, however, meant that there was little enforcement mechanism, should any State fail to provide its appropriate share. And, while some States were largely current with their payments, others weren't.[20]

As detailed in the Congressional charge given for calling forth delegates who would eventually attend the 1787 Constitutional Convention—for "the sole and express purpose of revising the Articles of Confederation...to... render the federal Constitution adequate to the exigencies of government, and the preservation of the Union"— the greatest exigency remaining in 1787 was the need to bring current the overdue debts of the United States.[21]

Article VI, Clause 1 of the Constitution, as later proposed and ratified, provided a constitutional adoption of the previous debts of the United States, no matter the form of government (first, loosely organized under the Second Continental Congress, and then more formally under the Articles of Confederation), stating:

> "All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation."

The United States, no matter the form of government, sought to honor their earlier debts, by the express terms of the Constitution. This war-related debt, as noted accurately by Hamilton, was "the price of liberty."[22]

> "The debt of the United States… was the price of liberty."
>
> Secretary of the Treasury Alexander Hamilton

Though the debts were justified, and the repayment of them proper, they had been largely deferred due to the inability of the Second Continental Congress and Confederation Congress to raise necessary funds from the States. Deferral discounted their value further, souring the economic situation of the day, especially monied interests.

Article VII of the Constitution declares that the Constitution would be established (between the States so ratifying the same) upon the ratification of conventions of nine States. Thereafter, government could be scheduled to begin.

On March 4, 1789, a Congress of the 11 States which had ratified the Constitution began at New York.[23]

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20. See "Balance Owed to Creditor States" [$3,517,584], out of the "Assumed Debt of States" amount [$12,181,254], on the following chart, showing the "Liquidated Debt of the United States" as of 1790.

The "Balance Owed..." figure represents debts that were already paid, meaning the States which had been paying their debts were credited their earlier payments, so not as to favor the States who had paid little to date.

21. 32 *Journals* 73 @ 74.

22. *American State Papers*, Finance Series, Volume 1, 1st Congress, 2nd Session, House Report # 6 "*Public Credit,*" Page 15.

The House met and adjourned daily until a quorum could be met, with a minimum quorum finally meeting on April 1, 1789.

The Senate met and adjourned daily until a quorum was ultimately met on April 6, 1789.

A President was then soon elected according to proper form—Washington took his oath of office on April 30, 1789. The supreme Court justices were nominated, confirmed and first met on February 1, 1790.

Work began in earnest to devise a plan to bring current the overdue debts. The House of Representatives formally requested first Secretary of the Treasury Alexander Hamilton to lay out a plan for the repayment of debts.

Hamilton set about his Herculean task, ultimately devising a system of credit to augment (undermine?) the monetary supply of the nation.

Before figuring out how to pay back the debts, it was appropriate to figure out how extensive was that debt.

The adjoining chart represents the "liquidated" debt of the United States—"liquidated" referring to making provision for their repayment.

23. North Carolina and Rhode Island had not yet ratified the Constitution, and thus were not part of the United States assembling together under the Constitution, as of that date.

Liquidated Debt of the United States, as of January 1, 1790 [24]

Foreign Debt				
Due France				
Loans	(French Livres)			
November 5, 1781	10,000,000			
September 3, 1783	18,000,000			
January 1, 1784	6,000,000			
Supplies	532,364			
Arrears in Interest	8,967,913			
Total Livres	43,500,277			
Exchange Rate (at 18.15 cents/Livre, in dollars), equals	$7,895,300		$7,895,300	
Due Holland				
Loans	Dutch Guilders)			
June 11, 1782	5,000,000			
March 9, 1784	2,657,500			
June 1, 1787	1,000,000			
March 13, 1788	1,000,000			
Total Guilders	9,657,500			
Exchange Rate (at 40 cents/Guilder, in dollars), equals	$3,863,000		$3,863,000	
Due Spain (in dollars)	$439,890		$439,890	
Total Foreign Debt			$12,198,190	**$12,198,190**
Domestic Debt				
Principal				
Certificates				
Loan Office Certificates (old emissions, reduced to specie value)	$11,463,802			
Loan Office Certificates (new emissions, in specie value)	$128,960			
Army Certificates	$10,967,146			
State Commissioner Certificates	$3,723,625			
Register of the Treasury Certificates	$715,704			
Army Staff Certificates	$1,159,170			
Sub-Total	$28,158,405			
Deduct certificates accepted for payment of Public Lands[24]	($960,915)			
Total Certificates	$27,197,490	$27,197,490		
Assumed Debt of States		$12,181,254		
Balance Owed to Creditor States		$3,517,584		
Claims for Unpaid Services and Supplies		$2,127,514		
Total Principal		$45,023,842	$45,023,842	
Interest				
Accumulated Interest		$11,398,319		
Interest on Assumed Debt of States		$6,090,561		
Interest on Balance Owed to States		$703,517		
Total Interest		$18,192,396	$18,192,396	
Total Domestic Debt			$63,216,238	**$63,216,238**
Total Debt as of January 1, 1790				**$75,414,428**

Source: *American State Papers*, Finance Series, Vol. 1, 4th Cong., 2nd Sess., House Doc. # 106 "*Public Debt*", Pp. 481-483.

24. "Liquidated Debt" means the amount of Debt specifically Accepted for Payment, and where a specific Program was worked out, for Repayment (Duties laid upon Imported Goods were slated to make the Interest Payments, whereas Public Land Sales were slated for Payment of Principal).

Please note that it appears that the number given within the Report, for Certificates accepted for payment of Public Lands ($969,015.44) transposed the numbers 0 and (the second) 9 (as well as being off by $.10). The number shown above ($960,915.34) is corrected from that actually listed in the report ($969,015.44) by deducting $8,100.10. See Source for evidence of mathematical error.

Please note that Treasury Secretary Alexander Hamilton did not list the $231,552,775 of bills of credit yet outstanding. He did, however, estimate their current (specie) value, at approximately $2,000,000 (at less than one penny on the dollar).

Continental Currency was therefore part of the "unliquidated" domestic debt (yet owing/in addition to the $75 million listed above).

That Hamilton then ignored bills of credit—upon which had been expressly pledged the "faith" of the U.S.—was made more significant, by his favoring the federal assumption of State war debts (to which the faith of the United States had never been pledged), which amounted to $12 million dollars.

When Congress enacted the legislative Act making provision for the payment of debt of the United States on August 4, 1790, members provided for paying off the Continental Currency, at the rate of:

> "one hundred dollars in the said bills, for one dollar in specie."[25]

When 99% of the stated value of hundreds of millions of dollars is lost (at the 1780's dollar value, no less), this tends to create a lasting effect in the minds of all who suffered through the loss.

Loss undoubtedly reached every man who would attend the 1787 Constitutional Convention (as well as the men who attended the State ratifying conventions), let alone every other person in the country.

That the convention delegates "barred the door" to paper currency should surprise no one who has read the history of the era.

Just as the Second Amendment was later written and ratified by men who had just liberated their country—not men who had merely gone "deer hunting"—the monetary clauses of the U.S. Constitution were proposed and adopted by men who had seen firsthand the "pestilent" effects of paper currency.

While the Articles of Confederation had expressly empowered Congress to emit bills of credit, the U.S. Constitution does not give Congress this power (while the Constitution also expressly prohibits the States from emitting the said bills, or making anything a tender, besides gold and silver coin).

Please realize that in a government of delegated powers, there is no reason to list federal powers never granted, and there is ample danger from doing so (for it would imply inherent powers never mentioned).

While Article I, Section 9 lists specific powers which members of Congress and federal officials cannot reach, those are specific limitations of general powers that were earlier given (such as the Clause 1 prohibition [for a 20-year period] on regulating the foreign importation of slaves, which is merely a restriction of a general power previously given "To regulate Commerce…" from Art. I, Sect. 8, Cl. 3).

Limiting the reach of particular powers otherwise delegated is a world of difference from prohibiting powers never delegated.

Note that Article I, Section 10 does reach to the express prohibition of particular powers prohibited the individual States, but that is appropriate since to the States are generally reserved the powers not granted to Congress and the U.S. Government.

Since many of the States/colonies had earlier emitted bills of credit and had made things a tender besides gold and silver coin, it was appropriate that such actions be expressly prohibited, to prevent the States from ever again exercising them.

Please note, as the signatories/principles to the U.S. Constitution, the States voluntarily gave up the Article I, Section 10 named powers—the States were not forced by Congress and/or the U.S. Government (the latter of which wasn't even in existence yet, until the States ratified the U.S. Constitution [and members of Congress merely represent the States, in their common meeting together, for tackling common concerns]).

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25. Volume I, *Statutes at Large*, Page 138. Section 3, 1790.

FOUNDATION FOR Liberty

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by Matt Erickson
June 21, 2022

The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 33: The Banks of the U.S.-vs-The Independent Treasury

All monetary legislation enacted by Congress—beyond the borrowing of money (under the express power of Article I, Section 8, Clause 2)—for the first 70 years following ratification of the Constitution dealt only with gold and silver coin.[1, 2]

Nevertheless, the early history of the United States shows a back-and-forth continuing struggle between Thomas Jefferson with his hard money advocates and Alexander Hamilton and his banking interests, who pushed their paper currencies (even if those currencies were not declared a tender).

Hamilton got the early lead, once Congress approved his favored banking bill, to establish the bank of the United States in 1791.

Of course, before the congressionally-approved bill could become law, Congress had to send it to the President for his signature, veto, or inaction.

However, since George Washington had also been the President of the Constitutional Convention of 1787, he would have undoubtedly heard the results of the vote of convention delegates, on August 16th, when nine States voted *against* the specific motion to include within their proposed draft of the Constitution, the express power for Congress to be able to "emit bills on the credit of the United States."[3, 4]

1. Copper cents and half cents were also specified and struck, but they weren't declared a legal tender.

2. U.S. Notes began being issued in 1812, but they were interest-bearing certificates (at 5.4%) given in evidence of borrowed money. These early interest-bearing notes did not answer the call of "money"—they were closer to a negotiable check (they were individually made payable to a named borrower, who could transfer them by delivery and assignment [by a signature endorsed on the back of the individual note]).

3. The nine States voting against the power to emit paper currency were New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia. Only New Jersey and Maryland voted in favor of paper currency.

Please realize that Rhode Island never attended the convention and that by August, New York was no longer present (NY delegates Robert Yates and John Lansing, Jr. left the convention on July 10, 1787 [even as Alexander Hamilton remained behind, but could not vote, since he didn't represent the minimum quorum needed for the State to vote]).[5]

4. *Madison's Notes on the Constitutional Convention of 1787*; August 16th.
https://www.consource.org/document/james-madisons-notes-of-the-constitutional-convention-1787-8-16/

5. The credentials given by New York to its delegates followed precisely the February 21, 1787 call of the Confederation Congress, for the States to meet in a convention "for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress, and to the several Legislatures, such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the several States, render the federal Constitution adequate to the exigencies of Government, and the preservation of the Union."[6]

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Given the convention history, President Washington was likely reluctant to sign the proposed bill, at least without first hearing from his principal officers, as the bill related to the duties of their respective offices, in accordance with his delegated power to command their answer, by way of Article II, Section 2, Clause 1.

Secretary of State Thomas Jefferson and Attorney General Edmund Randolph answered first and in the manner by which conservatives would come to answer such questions for centuries to follow—by looking to the normal rules of the Constitution, and, without finding the power in question listed there, asserting that the proposed power was therefore "unconstitutional."

Jefferson went so far as to assert that the banking bill, if enacted into law, would "break down" our "most ancient and fundamental laws" which "constitute the pillars of our whole system of jurisprudence."[7]

Randolph likewise categorically denied members of Congress had the power to charter a bank (or charter any corporation, for that matter).

Secretary of the Treasury Alexander Hamilton, however, used a wholly different tactic, to get what he wanted, when he knew full well that the normal rules of the Constitution couldn't and wouldn't get him there, as Jefferson and Randolph had already shown.

Indeed, Hamilton knew the normal rules wouldn't support his quest—he first affirmed "that the power of erecting a corporation is not included in any of the enumerated powers" and he also conceded "that the power of incorporation is not expressly given to Congress," showing that had he used a similar approach, he would have had to answer similarly.[8]

In a government of delegated powers, it would prove difficult to admit such vital concessions, yet still hope to succeed.

6. Volume 32, *Journals of the Continental Congress*, Page 71 @ 74. See also Farrand's Records of the Federal Convention of 1787, Volume III, Page 555 @ 579-581.

7. *George Washington Papers at the Library of Congress*, Series 2, Letterbook 32, Page 115:

http://memory.loc.gov/ammem/gwhtml/gwseries2.html.

8. *Ibid.*, Pages 121and 136, respectively.

But, the brilliant scoundrel Hamilton rose to the occasion, discussing the normal rules of the Constitution while twisting their meaning, to obscure within his lengthy response his crown jewel, that concentrated on the Constitution's single exception to all its normal rules (to keep from tipping his hand too directly, yet still support his cause). Hamilton wrote:

> "Surely it can never be believed that Congress with exclusive powers of legislation in all cases whatsoever, cannot erect a corporation within the district which shall become the seat of government...And yet there is an unqualified denial of the power to erect corporations in every case on the part both of the Secretary of State and of the Attorney General."[9]

After citing the express power of Congress under Article I, Section 8, Clause 17, to exercise exclusive legislation in all cases whatsoever, Hamilton stated:

> "Here then is express power to exercise exclusive legislation in all cases whatsoever over certain places, that is, to do in respect to those places all that any government whatsoever may do; For language does not afford a more complete designation of sovereign power than in those comprehensive terms."[10]

It is no coincidence that Hamilton's once-admitted words, which pointed to the express power members of Congress could tap to do as they pleased, centered upon the wholly-misunderstood power of Congress, to exercise exclusive legislation "in all Cases whatsoever," that they may look to, in and for the District Seat.

Congress may "do in respect to those places all that any government whatsoever may do," Hamilton argued, because "language does not afford a more complete designation of sovereign power than in those comprehensive terms."

It is important to note that Hamilton pointedly said that Congress may do "in respect *to those places"* all that any government whatsoever may do"—admitting that the exclusive legislation power is actually limited to "those places"—at least if his adversaries were ever

9. *Ibid.*, Page 137. Italics added.

10. *Ibid.*

to argue the correct points needed to stop Hamilton's unethical advances that used largely hidden means.

Hamilton pointed to the expressly-listed power of Congress being able to do as members pleased, except in the few cases expressly prohibited them. Federal servants could become political masters, at least in the District Seat, simply by tapping into their inherent discretion expressly allowed them under Clause 17.

Time would prove that this inherent power is THE SOURCE of unlimited federal authority, to do as members of Congress and federal officials pleased, "simply" extended beyond District borders. In other words, this Constitution-bypass mechanism uses an allowed power, ingeniously, beyond its rightful geographic limitations.

Jefferson and Randolph only proved that one cannot assert that given actions are [always] "unconstitutional" (i.e., "facially" unconstitutional [unconstitutional on their face]), because one clause of the Constitution authorizes most all actions within members' inherent discretion, except those precious few things expressly prohibited (the few expressly-mentioned prohibitions such as those found in the Bill of Rights).

There is only *one* method to bypass the Constitution—the one which the Constitution itself makes, for the District Seat and other exclusive legislation properties, by Article I, Section 8, Clause 17.

These special "exclusive legislation" areas—the District Seat and exclusive legislation forts, magazines, arsenals, dockyards and other needful buildings that are scattered throughout the Union—after all, are not really "the United States," as the U.S. Constitution literally understands the term.

Indeed, the U.S. Constitution never considers "the United States" as a single entity, but instead views the term like the Declaration of Independence views it—as the (now) fifty independent States united together in a common Union, where the States delegated specified powers to Congress and the U.S. Government, while reserving unto themselves the remaining governing powers.

The United States—properly understood—is where the U.S. Constitution DIVIDES allowable governing powers into enumerated federal powers and reserved State powers, and holds them resolute and inviolable. But, in exclusive legislation areas (i.e., the corporate "UNITED STATES"), ALL governing powers were UNITED in Congress and the U.S. Government, without any governing powers remaining within any State of the Union.

Indeed, the single States—the "particular" States (Maryland and for a time, Virginia)—which originally governed these areas, ceded their ability to govern therein, to Congress and the U.S. Government in 1791. After the State cessions and after full acceptance by Congress (in 1800), all governing powers within the District of Columbia became vested in Congress and the Government of the United States.

And, since the "District" is not a "State," but was created out of (particular) States, District residents are not guaranteed a Republican Form of Government, either. Neither do District residents enjoy legislative representation in Congress, since only "States" elect U.S. Representatives and U.S. Senators to meet in Congress.[11]

After all, while each State must follow the rules and guidelines of its respective State Constitution, there is no corresponding State Constitution, no District Constitution, and no State-like Constitution, which exist or operate within D.C., to guide and direct Congress, when members legislate exclusively therein, in place of a State.

Since someone must establish rules within the District Seat, the U.S. Constitution vests this exclusive legislation power *in Congress* "in all Cases whatsoever," without further enumeration, as elsewhere a State Constitution would guide and direct legislators as they enact law.

Therefore, members of Congress must make up all their own rules for the District Seat, within their inherent discretion. They only need to avoid the few things expressly prohibited them.

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11. See Article IV, Section 4, regarding only "States" being guaranteed "a Republican Form of Government." See Article I, Section 2, Clause 1 about U.S. Representatives being chosen only by "the People of the several States;" and see Article I, Section 3, Clause 1 and the 17th Amendment about U.S. Senators being chosen only by the people of the several States.

Concluding his thoughts, Hamilton wrote:

> "As far, then, as there is an express power to do any particular act of legislation, there is an express one to erect a corporation in the case above described."[12]

Ominously, Washington signed the bill, chartering the first bank for its designated 20-year term.

It would be difficult to find a more significant event which established a path away from the remainder of the Constitution for the next two hundred and thirty years, than this Act which first exploited the Constitution's highly-unusual exception apart from its normal rules, needing only the help of Article VI, Clause 2.

Holding that nothing in the Constitution exempts Article I, Section 8, Clause 17 from being *part* of "This Constitution"—which Article VI expressly details is "the supreme Law of the Land" that binds the States—Chief Justice Marshall later ruled that Clause 17 could also "bind all of the United States" (since Clause 17 is necessarily part of "This Constitution").[13]

This clever two-clause Constitution-bypass mechanism, absent direct and pointed challenge by opponents as they fight for limited government, enables the use of Clause 17 to bind the States beyond District borders, because liberty-minded Americans continuously make the wrong argument (that such power is *always* beyond allowable federal action).

The trick to expand this Constitution-bypass mechanism merely relies upon holding certain parts of the Constitution in an ultra-precise manner in one moment, to then be ultra-general in the next, while casting suspicion elsewhere, to hide their tracks, from those who do not take the time to discover how they have been snookered by an artificial color of law. And, it won't stop until we stop it, by finally fighting the diversion process *directly*, correctly.

12. *Ibid.*, Page 138.

Hamilton was directly referring to incorporating the District of Columbia as a government, but was inferring that if they could there incorporate a municipal government corporation, then they could incorporate for any reason, including a bank.

13. *Cohens v. Virginia*, 19 U.S. 264 @ 424 (1821).

But Hamilton was right, members of Congress are empowered by the Constitution to charter a corporation at the government seat, due to their express power to exercise exclusive legislation in all Cases whatsoever.

Of course, Philadelphia was only the acting government seat in February of 1791. And, Maryland and Virginia wouldn't even cede their respective lands for 10 more months, until December of 1791, while the District of Columbia wouldn't become the permanent seat for nearly another decade.

So, how could the District Seat power be used, even before the permanent District Seat was located, let alone ceded, built out and fully accepted?

That question is but a close cousin of the comment so many people make, upon their first hearing of using Clause 17 *beyond District borders*—that "Clause 17 cannot be used beyond District borders, since those borders are limited to ten miles square."

While the borders of these special lands ARE limited, scoundrels have nevertheless discovered how to extend exclusive powers *beyond* District boundaries.

That Americans categorical dismiss Hamilton's Constitution-bypass strategy without study is its brilliance and its recipe for resounding success.

For some reason, people refuse to believe that the most powerful clause of the Constitution, bar none, is being deviously extended beyond its legal and geographic boundaries.

These closed-minded people stubbornly refuse to see that Clause 17 is necessarily *part* of "This Constitution," and cannot fathom being duped with an allowed power, extended beyond defined boundaries.

Perhaps they are simply too proud to believe or admit they can be tricked, that they haven't understood how their political adversaries succeed as they please.

Incredibly, limited government proponents foolishly believe their political adversaries, who absurdly claim that they may exercise powers never before imagined, as Modern-Day Masters, by reinterpreting words and phrases found in the Constitution, to give themselves more power.

Nothing could be more absurd, than to believe that federal servants may increase their own powers, for direct exercise throughout the land, as proven by their oaths, which signify their subservience to the Constitution.

Please bear in mind that the great legal minds of Jefferson, Randolph and James Madison never challenged Hamilton's devious bypass strategy, which should have become increasingly-obvious over time, if not immediately after Hamilton's 1791 bank opinion.

That none of the greatest proponents of limited-government ever challenged Hamilton's devious bypass strategy—of using two clauses of the Constitution against the remainder—provides fair evidence that either something very sinister is going on, or just how devilish was Hamilton's evil strategy, that great men couldn't recognize it, even as its evidence grew and things grew increasingly absurd.

If Jefferson, Randolph, or Madison had realized the ramifications of Hamilton's strategy and opposed it properly, after all, they could have changed American history as we now know it today.

They only needed to propose an amendment to follow the strategy used by the 11th Amendment of 1795, to stop Hamilton's devious Constitution-bypass strategy dead in its tracks, before it ever got going.

The proposal only needed to exempt from the "supreme Law of the Land" holding of Article VI, the exclusive legislation power of Article I, Section 8, Clause 17. They only needed to expressly detail that the exclusive legislation power of Congress under Article I, Section 8, Clause 17 was NOT any part of the supreme Law of the Land, under Article VI.

Indeed, Chief Justice John Marshall, in 1821, said as much, after he had gave his primary holding in *Cohens* (which was when and where he said: "The clause which gives exclusive jurisdiction is, unquestionably, a part of the Constitution, and, as such, binds all the United States"[14]).

Marshall's next words largely gave his political opponents the route they needed to overrule him, as he stated:

> "Those who contend that acts of Congress, made in pursuance of this power, do not, like acts made in pursuance of other powers, bind the nation ought to show some safe and clear rule which shall support this construction, and prove that an act of Congress, clothed in all the forms which attend other legislative acts and passed in virtue of a power conferred on, and exercised by Congress as the legislature of the Union, is not a law of the United States and does not bind them."[15]

Although Marshall knew full well that no current words of the Constitution expressly exempted Clause 17 from being part of "This Constitution" which Article VI declares is "the supreme Law of the Land," he obviously understood that such missing words could simply be added, by way of the before-mentioned clarifying amendment.[16]

Of course, Chief Justice John Marshall never details within his ruling the very limited extent to which Clause 17 actually "binds" the several States, against their will.

This "binding" is primarily restricted to allowing federal marshals to bypass extradition for alleged criminals, who break Clause 17-enacted congressional laws within D.C. and then flee the District into the surrounding States. Saying that the States are "bound" by Clause 17-enacted laws means in this case that the States could not, for example, prevent federal marshals from chasing suspects they found within the State, who allegedly broke D.C.-congressional law in D.C., and fled the area, so marshals could remove the alleged criminals from the State, to face federal justice.

While Jefferson and Randolph asserted that the banking bill was "unconstitutional," in effect arguing that no clause of the Constitution could ever authorize the action in question—Alexander Hamilton easily proved them wrong, by answering (discretely) that Clause 17 could easily authorize the charter of a banking corporation.

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14. *Ibid.*

15. *Ibid.*, Pp 424 - 425.

16. An amendment need only say something to the effect: "The seventeenth clause of the eighth section of the first article of the Constitution for the United States of America *shall not be construed* to be any part of the supreme Law of the Land holding, under the second clause of the sixth article."

Of course, that still does not necessarily mean that members of Congress could do WHAT they wanted, WHERE they wanted, but that is another argument (an argument that neither Jefferson nor Randolph ever brought up, even after Hamilton's opinion [so Hamilton didn't have to defend his position]. Jefferson and Randolph only claimed Hamilton could never do what he wanted, which was wrong).

Within the 1791 banking Act, the bank's charter was set to expire (via its 20-year sunset provision) in 1811, unless Congress enacted another bill to continue it.

In 1811, after a multi-year effort by banking proponents to extend the bank charter, the extension bill failed. The first bank of the United States ended its ignominious run, ultimately being rechartered, under Pennsylvania State law, as a State bank.

Of course, the war (of 1812) between Great Britain and the United States erupted the very next year (no possible coincidence, surely), putting new pressure to charter another bank.

In 1816, Congress chartered the second bank of the United States, which President James Madison indefensibly signed into law, for another 20-year term.[17]

Thankfully, President Andrew Jackson famously battled against the second bank, which ended in 1836, after banking proponents again failed to extend its charter, even though they started the effort, in 1832.

Although national banks successfully received charters following difficult periods of war, prolonged peace proved wholly unfavorable to them.

On July 4, 1840, Democratic President Martin Van Buren ceremoniously signed into law what was then widely considered America's Second Declaration of Independence—the Independent Treasury Act—to separate "bank and State."[18]

The Act sought to implement a four-year planned process, to convert, 25%-per-year, over to using only gold and silver coin, in all federal transactions.

However, in 1841, the Whig political party took control of both Congress and the Presidency, and they soon repealed the Independent Treasury Act.[19]

17. 3 *Stat.* 266. April 10, 1816.

Wasting little time, the Whig Congress sent Whig President Tyler a bill to charter a third national bank.

Despite being a central tenet of the Whig political platform, President John Tyler nevertheless vetoed the bank bill, because to approve it, he said:

> "would be to commit a crime which I would not willfully commit to gain any earthly reward."[20]

All of the President's cabinet but Secretary of State Daniel Webster resigned in protest, attempting to show a vote of no-confidence in the President, trying to force his resignation.

Banking advocates rioted in front of the White House. The D.C. police were formed in response.

The political feud that had festered since 1791 came to final blows under government strictly-limited by the U.S. Constitution in 1846, in clear favor of the hard money advocates. Democratic President James K. Polk signed into law on August 6, 1846, the second Independent Treasury Act, which thankfully became fully operational.[21]

The Treasury's fire-proof vaults and safes were made the literal treasury of the United States under the 1846 Independent Treasury system (also known as the Sub-Treasury system). The coinage mints of Philadelphia and New Orleans were made sub-treasuries, as were the custom-houses of New York and Boston and also all U.S. Post Offices.

Section 6 of the Act prohibited the deposit of any federal money into any (State) bank (there were no federal banks of this era).

With all federal funds thereafter kept only in government vaults, the monetary supply was stabilized as no federal funds could be used to augment the creation of money out of thin air by State banks (note that none of the State banks' paper currency was ever declared a legal tender, however).

18. 5 *Stat.* 385.

19. 5 *Stat.* 439. August 13, 1841.

20. https://millercenter.org/the-presidency/presidential-speeches/august-16-1841-veto-message-regarding-bank-united-states.

21. 9 *Stat.* 59.

The new law required the collectors of the public money "to keep safely…all the public money collected by them," focusing on the secure return *of* money, rather than promoting an ever-elusive and fleeting return *on* money.[22]

The real "teeth" of the Act was found in Section 16, which spectacularly declared the "deposit in any bank…any portion of the public moneys" to be felony embezzlement.[23]

All payments due government, including for postage, were required to be paid by Section 18 in silver coin, gold coin, or the government's interest-bearing Treasury notes (which notes were not "money" [they were U.S. obligations of debt, so when the federal government accepted the securities in lieu of regular payment, it was cancelling federal debt]).

Section 19 required federal officials to pay government obligations due its creditors only in gold coin or silver coin, unless the individual creditor voluntarily agreed to accept Treasury notes in lieu of payment.

Section 1 allowed the Treasury Secretary to use drafts to offset credits and debits locally, to minimize the physical transfer of gold and silver coin across broad regions of the United States.

Section 21, however, explicitly charged the Secretary of the Treasury to guard against these drafts from "being used or thrown into circulation, as a paper currency, or medium of exchange."[24]

Section 20 required each department head to suspend any disbursing officer who violated any portion of the Act, forwarding the facts of each incident to the President for prompt removal and, when warranted, court trial and punishment.

One must realize that enactment and full implementation of the 1846 Independent Treasury Act was game-over for proponents of Big Government, who favored national banks with their destabilizing paper currencies, at least as long as limited government under strict construction of the Constitution remained in existence.

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22. Act of August 6, 1846. 9 Stat. 59 @ 60. Section 6.

23. *Ibid.*, Page 63. Section 16.

24. *Ibid.*, Page 65. Section 21.

The back and forth 70-year political battle between the followers of Jefferson and Hamilton was over, kaput, finished, in 1846, as Jefferson's limited government/hard money side finally and divisively won the monetary war.

But, 15 years later, real war again reared its ugly head; this time, of course, in the doubly-destructive War Between the States.

The Civil War is widely understood today to have been all about slavery—nominally to make people equal.

Strictly speaking, that may well have been true, but the circumstances that followed certainly didn't make everyone equally-free. One could argue people were equally-shackled, as debt escalated and as oppressive government action increasingly bound formerly-free people, no matter the color of their skin.

During and after the war, the Republic and government operating under it would never again be the same, at least as long as expansive government action wasn't adequately confronted at its only vulnerable link—exposing its hidden lie, of using Clause 17 and Article VI as a potent weapon against everything else.

The legal tender paper currencies of 1862 and the national banking associations that followed a year later, played no small part in transforming these United States of America into a totalitarian-minded, command and control economy.

Although it was during this Civil War era when the pronounced and noticeable shift away from strict construction of the whole Constitution became highly visible, the seeds of that later diversion were sown much earlier.

One may trace the evil seeds of our destruction back to Alexander Hamilton in 1791, if not 1787 (at the Convention itself, when Clause 17 and Article VI were enumerated).

Chief Justice John Marshall increasingly brought the evil seeds to their full fruition, in the early 19th century.

The fateful Tree of Oppression planted by 1791 simply took several generations to bear fuller fruit, until the Founders and Framers had passed away.

But, not even the illustrious men who founded the country and framed the government are without guilt, for the devious tactics of Hamilton and Marshall should have been increasingly obvious, if not in 1791, 1803, or 1819, then certainly by 1821.

Marshall could have easily been stopped—he even alluded to the process for stopping him, as noted earlier.[25]

While it was true that no existing words of the Constitution at that time (or yet today) exempted Clause 17 from being part of "This Constitution" which is the supreme Law of the Land, doesn't mean that "clear words" to that effect could not have been simply added at that time, or at any time since.

Hamilton's devious diversion process could have been stopped before it even got going, which would have given the United States a wholly-different history, without the hollowing out of American principles, businesses and morals, witnessed since.

But, even as we cannot change our past, we may certainly change our future.

All it will take is a few influential patriots to finally understand how the scoundrels have long succeeded, who begin preaching far and wide to expose the scoundrels' legal shenanigans to the bright light of day and begin to either fully repeal Clause 17, or at least exempt it from being any part of the supreme Law of the Land, under Article VI.

Either we blast out of existence the inherent power for federal servants doing as they please everywhere, or we at least finally contain that allowed tyranny to the federal District Seat and other exclusive legislation properties.

We restore our American Republic, only when we correctly diagnose what we face and confront it squarely.

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25. See Footnote #15.

The inherent discretion allowed federal servants in the District Seat is so powerful and so ingrained into everyday existence now, that it cannot be collaterally attacked from the side.

It must be dealt with openly, resolutely, and directly.

We only regain our liberty and limited government when we learn to say "Stop," because we have the full knowledge of how the scoundrels altered the rightful course of the United States by falsely extending an allowed power, far beyond its proper geographical boundaries.

We either end inherent discretion exercised over every square inch of American soil, or we absolutely restrict it to exclusive legislation soil.

Nothing else will do the job, because an alternate authority has extended its throne and its absolute rule, because we haven't been paying adequate attention.

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by Matt Erickson
July 20, 2022

The BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 34: The February 25, 1862 Legal Tender Act

This 34th issue of *The Beacon Spotlight* examines the 1862 legislative Act that issued the first paper currency notes declared a legal tender and lawful money.

It isn't necessary to follow all the nuances of this Act (or the few Acts before it). Primarily, it is important to realize that the status of the currency notes was difficult to comprehend at any given point in time and that Congress changed it, repeatedly.

This newsletter issue will also analyze several U.S. Supreme Court cases which touched upon the matter, including the one which explicitly ruled that paper currency notes declared to be a legal tender and lawful money were not and could not be, because the U.S. Constitution only allows those enviable designations for gold and silver coin.

It is within Americans' power and right to demand accountability—but first, one must understand what actually happened, so efforts to right the wrongs of the past and present are properly targeted, to keep them from reoccurring in the future.

1861, July 17 Act

Three months after the opening salvo of shots were fired at Fort Sumter, Congress authorized the borrowing of money not to exceed $250,000,000, by the Act of July 17, 1861.[1]

1. 12 Stat. 259

Various government securities were authorized to be given in evidence for the money that the government would borrow from willing creditors under this new Act, including coupon bonds transferable between creditors by delivery, registered bonds transferable on the books of the Treasury after delivery of the certificate, and various bearer treasury notes, all transferrable by delivery.

The bonds paid seven percent per year during their 20-year irredeemability period.

Three types of treasury notes were offered; the first were issued in denominations of $50 and upwards, payable three years after issuance, and earned 7.3% interest per year, interest payable semi-annually.

The second type of treasury notes were issued in denominations less than $50 (but at least $10), bore interest at 3.65%, and were payable in one year.

The third type of treasury notes were payable on demand and bore no interest, similar with the demand notes of 1815, both of which largely answered the [loose] call of paper currency (but, importantly, neither were forced upon creditors as a declared legal tender or lawful money).[2]

2. February 24, 1815 (3 Stat. 213 @ 214).
Note that an 1817 Act ordered all earlier-issued treasury notes cancelled and destroyed, once they became property of the United States (i.e., once the U.S. Government paid off individual creditors for the notes).[3]

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The total amount of demand treasury notes authorized to be issued under the July, 1861 Act couldn't exceed fifty million dollars, by Section 1.

Curiously, the July, 1861 Act made no mention about the notes being receivable for any government dues.

1861, August 5 Act

Four months into the Civil War, the Independent Treasury Act of August 6, 1846 sustained its first direct political hit, as banks were again made central figures in the world of government finance, by Congress lifting the 1846 prohibition on depositing federal public funds into banks.[5]

Section 6 of the August 5, 1861 Act authorized the Secretary of the Treasury to deposit public funds in "solvent specie-paying banks."[6]

Section 5 of the August 5th Act corrected the omission from the July 17, 1861 Act and made the demand treasury notes allowed under that July Act to be "receivable in payment of public dues."[7]

1862, February 25 Act

On February 25, 1862, Congress signed into law an Act authorizing the first issuance of "United States notes," called by that name, within the body of the Act.[8]

These notes were popularly-called "greenbacks," for the green ink used to print their reverse side.

The February 25, 1862 Act required the demand notes of July 17, 1861 be withdrawn from circulation and substituted instead with the new United States notes (to minimize the earlier-notes' legal shortcomings and to increase the demand for the new notes with their newly-declared status [see below]).

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3. 3 Stat. 377. Sections 1-3. March 3, 1817.

During the reign of the second bank of the United States (1816-1836), no treasury notes were issued

On October 12, 1837, after the second bank shuttered, new (interest-bearing) treasury notes were again authorized, which were transferable by delivery and assignment, endorsed on the back by the person individually named on the face of the document.[4]

4. 5 Stat. 201.

Under Section 1 of the February 25, 1862 Act, the United States notes therein authorized were made:

> "receivable in payment of all taxes, internal duties, excises, debts, and demands of every

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5. Argument could be made—given that the Civil War severely undermined Jefferson's ideal for hard money and limited government, after his followers had decisively won the 55-year political battle against Hamilton's banking, paper currency, and omnipotent government advocates, with enactment of the 1846 Independent Treasury Act—that the Civil War was ultimately waged to destroy limited government under strict construction of the U.S. Constitution, even as slavery became the only admitted topic of conversation.

The Independent Treasury had amply proved its economic stability over the previous 15 years, even during a period of declared war.

The Mexican War of 1846 was largely similar in size and scope as the War of 1812, but the U.S. suffered little of the inflationary effects that followed the War of 1812, after which the second bank had been chartered and monetary creation soon followed.

Since in 1861 we had already won recent war against our neighbors to the south, and were still on friendly terms with our neighbors to the north, and without credible threat from Europe or Asia during a period of decided American non-intervention in foreign lands, only by waging war against ourselves, funding both sides of a major conflict, could expenses and losses be so high as to overwhelm the Independent Treasury system and end its reign, to help usher in expansive federal powers of inherent discretion.

	War of 1812	Mexican War of 1846
Original War Costs	**$93,000,000**	**$73,000,000**
Veteran's Benefits	**$49,000,000**	**$64,000,000**
Interest	**$16,000,000**	**$10,000,000**
Total War Costs	**$158,000,000**	**$147,000,000**
Number of Active Duty Military Personnel, by Year		
1849		**23,165**
1848		**60,308**
1847		**57,761**
1846		**39,165**
1845		**20,726**
1816	**16,743**	
1815	**40,885**	
1814	**46,858**	
1813	**25,152**	
1812	**12,631**	

Source:
Historical Statistics of the United States (Colonial Times to 1970)
Chart Y 849-855 (War Costs)
Chart Y 904 (Personnel)

6. 12 Stat. 313, Section 6.

7. 12 Stat. 313, Section 5. August 5, 1861.

> kind whatsoever, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."[9]

These February 25, 1862 U. S. notes were the first notes (since ratification of the U.S. Constitution) declared a "lawful money" and a "legal tender."

When studying history to learn where and how things went wrong, it is important to note peculiar actions and strange events which don't quite make sense, to begin compiling evidence of odd events brewing behind the scenes and under the radar.

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8. Realize that a minor legislative Act of February 12, 1862 (12 Stat. 338) had been entitled "An Act to authorize an additional issue of United States Notes," but the notes therein authorized were NOT referenced within the body of that law as "United States notes"—instead they were specifically designated as "treasury notes" (realize that titles of law are NOT a part of the law actually enacted by Congress; titles are typically added after enactment, for convenience).

Of course, since the February 12th Act was for "an additional issue" of United States notes, then the February 12th Act was not, according to the February 25th Act, the first to issue United States notes.

And, since the February 12th Act also held its demand notes as "like notes, and for like purposes" as the [demand] notes of July 17, 1861 and the [demand] notes of August 5, 1861, then notes issued under all three earlier Acts were effectively treated by the February 25, 1862 Act as "United States notes," even though the first two Acts chronologically referred to the notes issued thereunder specifically as "treasury notes."

The February 25, 1862 Act was the first Act to legally refer within the body of the law, to "United States notes."

9. 12 Stat. 345. Section 1, which also said, in part:

> *"Provided, however,* That fifty millions of said notes shall be in lieu of the demand Treasury notes authorized to be issued by the act of July seventeen, eighteen hundred and sixty-one; which said demand notes shall be taken up as rapidly as practicable, and the notes herein provided substituted for them."
>
> February 25, 1862.

In this situation, realize that the first treasury notes were issued in 1812, simply for a more convenient form of government securities than the earlier-issued subscriber certificates.[10] These 1812 notes were made "receivable" in payment of all duties and taxes laid by the United States, and could also be used for payment of public land purchases from the United States.

Section 6 of the Act of June 30, 1812 stated that the treasury notes therein authorized would be:

> "every where received in payment of all duties and taxes laid by the authority of the United States, and of all public lands sold by the said authority."[11]

Section 6 of the February 24, 1815 Act made the treasury notes therein authorized:

> "every where received in all payments to the United States."[12]

And, Section 6 of the Act of October 12, 1837 declared that the treasury notes therein authorized:

> "shall be received in payment of all duties and taxes laid by the authority of the United States, of all public lands sold by the said authority, and of all debts to the United States, of any character whatsoever, which may be due and payable."[13]

Also realize that none of these earlier treasury notes were ever made a legal tender or lawful money, even as they were all made acceptable for all payments due the U.S. Government.

Now, however, these new February 25, 1862 United States notes—the first notes specifically delineated both a "legal tender" and a "lawful money"—could NOT be used by government to pay interest or principal due its creditors, on government-issued bonds and notes! And, even more significantly, neither could these legal tender, lawful money notes be used by private parties to make payment for the duties they owed to the U.S. Government, upon imported goods!

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10. See the Act of August 4, 1790 (I Stat. 138), for example.

11. 2 Stat. 766 @ 767.

12. 3 Stat. 213 @ 214.

13. 5 Stat. 201 @ 202.

The very paper Congress specifically declared a legal tender and lawful money could NOT be used for all payments even due the federal government!

This rather absurd conundrum provides fair evidence that something was not entirely right with these legal tender paper currency notes—that they may not actually be all that they were declared.

Section 1 also details that United States notes:

> "shall be received the same as coin, at their par value, in payment for any loans that may hereafter be sold or negotiated…and may be re-issued from time to time as the exigencies of the public interest may require."[14]

This passage gave creditors of the United States notice that future principal and interest payments on new government issued debts could and would be paid in United States notes. Prospective government creditors unwilling to lend money to the U.S. Government under such new terms and conditions would have to take their investments elsewhere.

By these words, no longer would government accepting the notes extinguish them, but the notes could be re-issued, as the "exigencies of the public interest may require." This rule extended circulation of the notes into a discretionary perpetuity, allowing the buildup of debt, long past its original term.

1862, March 17 Act

On March 17, 1862, Congress retroactively made the demand treasury notes of July 17, 1861 (but not the two other types of treasury notes therein authorized that bore interest) receivable in payment for duties and imports (even as the February 25, 1862 Act had earlier ordered the demand notes of July 17, 1861 be "taken up as rapidly as practicable," so that the February 25, 1862 notes could be "substituted for them").[15]

The March 17, 1862 Act also made those July, 1861 notes and February 12, 1862 notes "lawful money and a legal tender, in like manner, and for the same purposes, and to the same extent," as the notes authorized by the February 25, 1862 Act.[16]

14. 12 *Stat.* 345. Section 1. February 25, 1862.
15. 12 *Stat.* 370. Section 2.

1862, July 11 Act

On July 11, 1862, Congress authorized the issuance of $150,000,000 of additional United States notes not bearing interest and payable to bearer, in denominations of at least one dollar.

The United States notes were made, like their February 25, 1862 cousins:

> "receivable in payment of all loans made to the United States, and of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports and interest, and of all claims and demands against the United States, except for interest on bonds, notes, and certificates of debt or deposit ; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid."[17]

Had existing debtors willingly honored their original promises—paying principal and interest for their old loans in gold and silver coin—there would have been no controversies for the courts later to parse out.

But, being people, some sought to repay their debts with the cheapest-possible dollars.

With the new legal tender United States notes falling in value to some 44 cents-on-the-[gold]-dollar in just a few years, strong incentives made it all but inevitable that several cases would make their way up to the U.S. Supreme Court.

Bronson v. Rodes, 74 US 229, 1869

In *Bronson v. Rodes*, the central question considered by the Supreme Court was whether Bronson (who held the private mortgage) was:

> "bound by law to accept from Rodes United States notes equal in nominal amount to the sum due him as full performance and satisfaction of a contract which stipulated for the payment of that sum in gold and silver coin, lawful money of the United States?"[18]

16. *Ibid.*
17. 12 *Stat.* 532
18. 74 *U.S.* 229 @ 245. Italics added.

In answering that question, the Court observed that "there was no necessity in law for such stipulation" (as italicized in the passage above) "for at that time no money, except gold and silver, had been made a legal tender. The bond without any stipulation to that effect would have been legally payable only in coin."[19]

The Court appropriately ruled that the word "debts" as used in the February 25, 1862 Act which made United States notes "legal tender…of all debts" did NOT include obligations when at the time a loan contract was written, that only gold and silver coin were legal tender, saying:

> "it must be held…that express contracts to pay coined dollars can only be satisfied by the payment of coined dollars. They are not "debts" which may be satisfied by the tender of United States notes."[20]

But, in giving its ruling, *Bronson* didn't go any further than it needed to decide the particular issue before the Court, stating that it wasn't:

> "necessary now to examine the question whether the clauses of the currency acts, making the United States notes a legal tender, are warranted by the Constitution."[21]

As is customary, if the Court can decide the issue before them, without resorting to larger issues of constitutionality, it will first do so.

The Court nevertheless commented on general principles of the various coinage Acts of Congress, for instance saying:

> "The design of all this minuteness and strictness in the regulation of coinage is easily seen. It indicates the intention of the legislature to give a sure guaranty to the people that the coins made current in payments contain the precise weight of gold or silver of the precise degree of purity declared by the statute. It recognizes the fact, accepted by all men throughout the world, that value is inherent in the precious metals; that gold and silver are in themselves values, and being such, and being in other respects best adapted to the purpose, are the only proper measures of value; that these values are determined by weight and purity; and that form and impress are simply certificates of value, worthy of absolute reliance only because of the known integrity and good faith of the government which give them."[22]

But, the Court also gave warning to creditors, to write their new contracts clearly, so debtors would know when they were required to make payments in gold or silver coin, rather than having the option of paying in paper currency (with benefit going to the debtor, if the creditor did not clearly specify such terms in his contract), saying:

> "When, therefore, two descriptions of money are sanctioned by law, both expressed in dollars and both made current in payments, it is necessary, in order to avoid ambiguity and prevent a failure of justice, to regard this regulation as applicable alike to both. When, therefore, contracts made payable in coin are sued upon, judgments may be entered for coined dollars and parts of dollars; and when contracts have been made payable in dollars generally, without specifying in what description of currency payment is to be made, judgments may be entered generally, without such specification."[23]

However, the Court also said:

> "It follows that there were two descriptions of money in use at the time the tender under consideration was made, both authorized by law, and both made legal tender in payments. The statute denomination of both descriptions was dollars; but they were essentially unlike in nature. The coined dollar was, as we have said, a piece of gold or silver of prescribed degree of purity, weighing a prescribed number of grains. The note dollar was a promise to pay a coined dollar; but it was not a promise to pay on demand nor at any fixed time, nor was it, in fact, convertible into a coined dollar. It was impossible, in the nature of things, that these two dollars should be the actual

19. *Ibid.*, Pg. 246.
20. *Ibid.*, Pg. 254.
21. *Ibid.*, Pg. 251.
22. Ibid., Pg. 249.
23. *Ibid.*

equivalents of each other, nor was there anything in the currency acts purporting to make them such."[24]

Because Rodes had assumed a mortgage that was originally taken out when legal tender consisted only of gold and silver coin, Rodes had to pay back in gold or silver coin, even though during his repayment period, new laws were enacted which declared paper notes a tender for all debts, including private debts.

Hepburn v. Griswold, 75 US 603, 1870.

While the *Bronson* Court issued its ruling without examining the constitutionality of the 1862 Legal Tender Act itself, the factors involved with the 1870 *Hepburn v. Griswold* case required a different approach. The justices in *Hepburn* specifically declared that they were:

> "brought to the question, whether Congress has power to make notes issued under its authority a legal tender in payment of debts, which, when contracted, were payable by law in gold and silver coin."[25]

Therefore, *Hepburn* went much further than *Bronson*, into a full and open investigation of the true legal authority of Congress, to even be able to enact legal tender paper currencies in the first place.

The *Hepburn* Court appropriately and spectacularly upheld only gold and silver coin as legal tender, concluding:

> "We are obliged to conclude that an act making mere promises to pay dollars a legal tender in payment of debts previously contracted, is not a means appropriate, plainly adapted, really calculated to carry into effect any express power vested in Congress; that such an act is inconsistent with the spirit of the Constitution; and that it is prohibited by the Constitution."[26]

The U.S. Supreme Court squarely ruled *against* paper currency being a legal tender and lawful money, even though Congress had specifically declared their new paper currency notes to be both a tender and lawful money.

Hepburn had other comments which help people understand what is money, including acknowledging that the power of "regulating" money:

> "is a power to determine the weight, purity, form, impression, and denomination of the several coins, and their relation to each other, and the relations of the foreign coins to the monetary unit of the United States."[27]

The *Hepburn* justices also said that the power of Congress to issue paper currency notes and the power to make them a legal tender are not one in the same, saying:

> "Indeed, we are not aware that it has ever been claimed that the power to issue bills or notes has any identity with the power to make them a legal tender. On the contrary, the whole history of the country refutes the notion."[28]

The Court admitted, as too often occurs during time of war, that:

> "It is not surprising that amid the tumult of the late civil war, and under the influence of apprehensions for the safety of the Republic almost universal, different view, never before entertained by American statesmen or jurists, were adopted by many. The time was not favorable to considerate reflection upon the constitutional limits of legislative or executive authority. If power was assumed from patriotic motives, the assumption found ready justification in patriotic hearts. Many who doubted yielded their doubts; many who did not doubt were silent. Some who were strongly averse to making government notes a legal tender felt themselves constrained to acquiesce in the views of the advocates of the measure. Not a few who then insisted upon its necessity, or acquiesced in that view, have, since the return of peace, and under the influence of the calmer time, reconsidered their conclusions."[29]

24. *Ibid.*, Pages 251 – 252. Italics added.
25. 75 U.S. 603 @ 610.
26. *Ibid.*, Pg. 625. Italics added.
27. *Ibid.*, Pg. 616.
28. *Ibid.*, Italics added.
29. *Ibid.*

The Court lastly stated that the Fifth Amendment prohibition against depriving any person of (life, liberty, or) property without due process of law "cannot have its full and intended effect unless construed as a direct prohibition of the legislation which we have been considering" and that "it is quite clear, that whatever may be the operation of such an act, *due process of law makes no part of it.*"[30]

Both the *Bronson* and *Hepburn* cases supported honest money, with the latter fully refuting the idea that paper currencies were legal tender under the U.S. Constitution for direct use, throughout the Union.[31]

Of course, those pushing for government to be all things at all times couldn't permanently accede to this understanding, for tyranny financially-limited hasn't chance to grow and blossom to reward them accordingly.

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30. *Ibid*. Pg. 624. Italics added.

31. Also see *Lane County v. Oregon*, where the U.S. Supreme Court ruled: "that the clause making the United States notes a legal tender for debts has no reference to taxes imposed by state authority."[32]

While *Bronson* and *Hepburn* said that U.S. notes declared a legal tender and a lawful money weren't a tender in payment of debts previously incurred and that Congress had not the enumerated power to make paper currency a legal tender, respectively, *Lane County* also said paper currency notes declared a tender could not be used to pay taxes imposed by State authority, when State law says the opposite.

32. *Lane County v. Oregon,* 74 U.S. 71 @ 81 (1868).

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by Matt Erickson
August 23, 2022

The BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 35: *The Legal Tender Cases* Supreme Court Opinion of 1871

When the majority of the U.S. Supreme Court ruled in 1870 *Hepburn v. Griswold* that the 1862 Legal Tender Act was "inconsistent with the spirit of the Constitution" and thus its paper currency was actually "prohibited by the Constitution," *The Powers That Wanted To Be* quickly sprang into action to overpower the court ruling, one way or another.

Hepburn was decided 5-3, by a 9-member court, with one vacancy.[1]

1. Legislation varying the number of Supreme Court justices are:

- 1789, Sept. 24 (1 Stat. 73): The Supreme Court established with 6 justices (one Chief Justice and five associate justices).
- 1801, Feb. 13 (2 Stat. 89): 5 justices (upon "next vacancy"). Federalist President John Adams and the Federalist-controlled Congress eliminated one judicial seat on the Supreme Court, to prevent incoming Democratic-Republican President Thomas Jefferson from easily nominating a new justice, upon its first vacancy. This action was concurrent with their successful effort to create new Circuit Courts and pack them with new Federalist judges, to maintain continued Federalist relevance long after their party fell into obscurity.[2]
- 1802, Mar. 3 (2 Stat. 132): 6 justices (repealing the Feb. 13, 1801 Act). Jefferson had enough members of Congress on his side, to repeal the Federalists' 1801 efforts to stall him.

Footnote 1: cont'd.

- 1807, Feb. 24 (2 Stat. 420): 7 justices (upon creation of the 7th Circuit).
- 1837, Mar. 3 (5 Stat. 176): 9 justices (upon creation of the 8th and 9th Circuits).
- 1863, Mar. 28 (12 Stat. 794): 10 justices (upon creation of 10th Circuit).
- 1866, July 23 (14 Stat. 209): 7 justices (no vacancies filled until number of associate justices was reduced to six [plus one Chief Justice]).
- 1869, Apr. 10 (16 Stat. 44): 9 justices (adding two associate justice positions).

2. The February 13, 1801 Judiciary Act (2 Stat. 89) created 16 new Circuit Court judgeship positions (which Federalist President John Adams' filled with Federalist judges), while the February 27, 1801 D.C. Organic Act (2 Stat. 103) organized the District of Columbia and created 42 new Justice of the Peace positions (23 positions in Washington County and 19 in Alexandria County).

Incidentally, it was under the latter February 27th D.C. Organic Act where the commissions didn't get delivered to President Adams' Federalist "Midnight Judges" in Washington County, before Democratic-Republican Thomas Jefferson was sworn in as the third President the following day.

Jefferson ordered his (new) Secretary of State, James Madison, to withhold 11 of the undelivered commissions, for the judges of which Jefferson didn't approve, including one for William Marbury.

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Footnote 2: cont'd.

And, it was Marbury's denied commission that ended up serving as the basis for his federal suit against James Madison, which Chief Justice John Marshall used as Ground Zero for expanding federal powers, to begin launching unfettered federal action.

In 1803 *Marbury v. Madison*, Marshall came to rule over the case in which he was the material participant, if not actual ringleader. After all, John Marshall had served as President Adams' Secretary of State. When Adams signed the commissions for his "Midnight Judges" late in the evening on his last day of office, it was Marshall as Secretary of State who placed the federal seal thereon and then recruited his brother James to deliver them (or not deliver them, as the case may be). James Marshall didn't get the 19 commissions for Washington County Justices delivered before Jefferson was sworn in the next day.

Ignoring his conflict of interest, John Marshall finished in Court, as referee, no less, what he may well have intentionally created as Secretary of State, as one of the principal players of the case.

In *Marbury*, Marshall established the Court's supposed power of "Judicial Review," which seemingly placed judges above the Constitution, by implication of his words that said (italics added): "It is emphatically the province and duty of the Judicial Department *to say what the law is*."[3]

Because, it was not simply congressionally-enacted law which the Court would seek to "interpret," but, at least later, also words found in the Constitution itself (see, especially, his 1819 *McCulloch v. Maryland* opinion, for example).

To understand two hundred and twenty years of growing federal tyranny ultimately resting upon *Marbury* and more firmly planted by *McCulloch*, it is absolutely essential to realize that Marbury was to be given a commission, for Justice of the Peace, for the District of Columbia, under the February 27, 1801 D.C. Organic Act.

And, it is no coincidence that the February 27, 1801 D.C. Organic Act itself found its support from Article I, Section 8, Clause 17 of the U.S. Constitution.

Since the peculiar principles at odds with the bulk of the Constitution actually rest only on its highly-unusual exception—Art. I, Sec. 8, Cl. 17—then the principles of *Marbury* necessarily pertain *only to exclusive legislation properties.* Indeed, the Court may not, could not and cannot overrule the Constitution even justices swear to support, as Marshall implied by his "interpretation" of words found in the Constitution, different from their meaning that was meant at the time of ratification.

Footnote 2: cont'd.

It was and is in this special "exclusive legislation" authority where members of Congress have the inherent discretion to exercise that exclusive legislation "in all Cases whatsoever"—i.e., to do anything they desire, except those precious few things expressly prohibited them.

This standard of inherent discretion, of course, differs from the standard for allowable federal action, for direct implementation throughout the whole Union, where members of Congress may only exercise enumerated powers, using necessary and proper means.

The two opposing standards for allowable federal action—at extreme opposite ends of the allowable spectrum—follow the two different authorities discussed and detailed by the U.S. Constitution.

Throughout all the Union, all of the Constitution beyond Clause 17 details the enumerated powers members of Congress and federal officials may directly exercise using necessary and proper means.

Then, for the District Seat and other exclusive legislation lands, federal servants may do anything and everything within their inherent discretion, except those few things expressly prohibited them, under Clause 17.

Remember, for exclusive legislation properties, Congress may exercise what otherwise amounts to local actions, which are elsewhere performed by States. This doesn't run afoul with the Tenth Amendment, because Maryland's cession of land in 1791 also ceded all of its ability to govern the ceded parcel, *without reserving any powers unto itself* [so, there aren't any longer any reserved powers for the Tenth Amendment to here apply]).

Because, in D.C., governing powers are NOT DIVIDED into enumerated federal powers and reserved State powers, like all other non-exclusive lands, *but instead all governing powers are UNITED in Congress*. No powers are ever shared with any State of the Union, in D.C., like they are DIVIDED in every State (into enumerated federal powers and reserved State powers).

The peculiar principles Marshall espoused in *Marbury* at odds with the whole Constitution *thus only apply to the exclusive legislation authority for the District of Columbia*, forts, magazines, arsenals, dockyards and other needful buildings, under Article I, Section 8, Clause 17, of the U.S. Constitution.

Please see Matt Erickson's public domain book, *Two Hundred Years of Tyranny,* freely-available electronically, at www.PatriotCorps.org, for full discussion of this critical missing piece of the federal tyranny puzzle.

3. *Marbury v. Madison*, 5 U.S. 137 @ 177. 1803.

On the side in majority, voting *against* paper currency as legal tender in *Hepburn*, was Chief Justice Salmon P. Chase, who authored the opinion, joined by Associate Justices Nelson, Grier, Clifford and Field.[4]

Voting *for* paper currency as legal tender in *Hepburn*, against Chase, were Associate Justices Miller, Swayze, and Davis.

After the justices had completed their work on *Hepburn* but before the ruling was made public, colleagues helped convince Justice Robert Cooper Grier to retire (which he did, on January 31, 1870), leaving the court with two vacancies.

On the same day that *Hepburn* was made public (February 7, 1870), Republican President Ulysses S. Grant nominated William Strong and Joseph P. Bradley to the Supreme Court, later confirmed.

Thus, when two open legal tender cases made their way up for review by the Supreme Court the following year, on questions not yet fully answered, the Court's makeup was minus-one to retirement, but plus-two vacancies filled.

When both new justices voted in favor of legal tender paper currencies in the 1871 *Legal Tender Cases* opinion (the combined name for the individual lower court cases of *Knox v. Lee* and *Parker v. Davis*, which were heard and ruled upon jointly by the Supreme Court), the old 5:3 record (with a 4:3 vote for the justices yet remaining on the bench), suddenly turned into a losing hand, as the 4 remaining justices yet opposed to paper currency were suddenly outvoted by 5 justices now voting in favor of it.

The new math aligned with the new paper currency—the 5 minus 1 (4) vote lost out to 3 plus 2 (5)—without any justice changing his earlier position, as the two new justices swung the tally, supposedly overruling *Hepburn*.

The historical record—from *Hepburn v. Griswold* to *The Legal Tender Cases*—seems to reverse course on largely the same question, apparently only because of the change of personnel. Thus, this record seems to support the underlying premise that *whoever* sits on the Supreme Court gets to determine the extent of allowable federal powers. The record also seems to favor Marshall's argument that justices "say what the law is," perhaps going so far as law being "whatever 5 justices decide," nominally within their own discretion).

And, since American Presidents nominate Supreme Court justices, the latter who hold their positions during "good behaviour" (which seems to embrace a whole lot of "bad behavior"), this policy becomes concentrated on voting and elections. In other words, Democracy in Action.

But, the primary issue in our Constitutional Republic is NOT *how* the justices vote. It is not even *who* votes (as judge, in this instance). Nor is it the judge's personal, political and/or philosophical bent. Instead, the most important single question in a government of enumerated powers is the extent of that delegation of authority. The primary topic of concern in our Constitutional Republic is always and must be "what are the delegated federal powers?"

In other words, in our Republic where federal servants are given enumerated powers that may only be exercised using necessary and proper means, it matters little, at least to the people at large, *who* actually wins elections or *who* is appointed to federal office, *for the available powers do not change with a changing of the guard.*

While *The Legal Tender Cases* opinion appears to support the theory that new justices can increase federal powers on their own, thankfully, that widely-believed premise is absolutely and fundamentally false!

Patriots interested in restoring limited government and individual liberty must stop believing all the lies our political opponents tell us, and we also need to stop listening to the lies repeated to us by our well-meaning but misinformed colleagues, who fail to challenge their own falsely-accepted premises that undermine our success.

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4. Interestingly enough, Chief Justice Chase had been the chief proponent of the 1862 Legal Tender Act, when he had earlier served as Secretary of the Treasury.

That he later ruled against the Legal Tender Act as Chief Justice, that he had helped put into place as Secretary of the Treasury, with largely the same oath of office, mimics John Marshall's earlier lead, of ruling on a case where an "impartial" judge was involved in setting up the facts of the case (even as here, Chase curiously changed his earlier position).

Instead, we who fight for individual liberty and limited government must begin to challenge long-accepted misunderstandings, that favor the continuing exercise of inherent federal power, indirectly extended throughout the Union.

Our political adversaries who strive for unlimited political power may only win if we play their game by their distorted rules.

Americans must learn that our Republican Form of Government is not up for grabs every two, four or six years; nor is it ever dependent upon the political leanings of appointed personnel.

No person who exercises delegated federal powers may ever change their own powers or those of their cohorts, for direct exercise throughout the Union.

Every person who exercises federal power must swear an oath to support the Constitution (or, inferior public servants who don't individually swear such an oath necessarily work under a superior who has sworn it), which necessarily places them *inferior* to the Constitution they swear to support.

Only ratified amendments change the Constitution and allowed federal powers. And, only States as principals to the constitutional compact are empowered to ratify proposed amendments.

Given the Constitution, *everything* that appears to have changed significantly over time, outside and independent of ratified amendments, *emplaced instead by and through members of Congress and federal officials themselves,* that appears to violate these fundamental and unchangeable principles only falsely masquerades as law, because it has been fraudulently extended beyond its allowable geographic boundaries.

Patriots must start putting in an extra effort and dig deeper. And, a great place to begin that in-depth dive is with *The Legal Tender Cases* Supreme Court opinion.

Even though *Hepburn* and *The Legal Tender Cases* came to conclusions which appeared to oppose one another, after learning to read between the lines, one learns that they arrived at their respective conclusions *only by looking at different parameters.*

In other words, despite longstanding appearances, *The Legal Tender Cases* didn't actually overrule *Hepburn*, but merely operated within the Constitution's unknown exception, that allowed legal tender paper currency *only in a very specific instance.*

Therefore, *Hepburn* and *The Legal Tender Cases* may actually stand, side-by-side, without contradiction.

The Legal Tender Cases opinion really only held that paper currency could be emitted and declared a legal tender under the exclusive legislation authority of Congress for the District of Columbia, under Article I, Section 8, Clause 17 of the Constitution for the United States of America, where members of Congress may do anything and everything within their discretion, which isn't actually prohibited them.

After all, the "District" is NOT a "State," only the latter of which, is expressly prohibited from coining money, emitting bills of credit (paper currency) and making things a tender in payment of debts, beyond gold and silver coin (by Art. I, Sect. 10, Cl. 1).

In other words, when members of Congress exercise exclusive legislation powers for the District Seat, they are NOT similarly expressly prohibited from emitting bills of credit and calling them a legal tender like State governments are expressly prohibited.

Hepburn correctly ruled that members of Congress may not emit bills of credit and call them a legal tender, directly, for the whole Union. After all, emitting bills of credit and calling them a legal tender for the whole Union are not a necessary and proper means to an enumerated power, so no later court could ever rule any differently, at least until the Constitution was properly amended giving Congress that power or those means.

But, under the District Seat's exclusive legislation power, Congress may there do whatever isn't expressly prohibited them, as members exercise State-like powers, without having to follow any applicable State, State-like, or District Constitution, or even have to follow the normal parameters of the U.S. Constitution, which are meant only for the remainder of the Union (not counting exclusive legislation properties).

To throw off the artificial rule of paper tyrants, patriots must look beyond the superficial mirages that falsely appear to rule the day, where tyranny yet reigns.

Americans interested in limited government and individual liberty must quit buying into the false narrative that asserts that election winners get to steer American government in a direction of their own choosing. This Winner-Take-All scheme to overturn fundamental American principles only benefits those who cannot win any other way, because of the remainder of the Constitution (thus, the scoundrels only operate *where* they may exercise inherent discretion [which is for the District Seat, and other exclusive legislation properties]).

Instead of foolishly listening to our political adversaries frame the narrative so they may establish absolute tyranny in the Land of the Free and Home of the Brave, patriots must learn to go their own way and discover the evidence on their own.

Never forget that the available powers capable of being directly exercised throughout the Union are limited at their source, by the U.S. Constitution, regardless of who is elected to Congress or the Presidency, or who is appointed to federal office, including the judiciary.

The political views or personal preferences of election winners and appointed bureaucrats are largely irrelevant in the long-term affairs of the Republic, by design.

The Legal Tender Cases ostensibly sought to answer two questions:

> "Are the acts of Congress, known as the legal tender acts, constitutional when applied to contracts made before their passage, and secondly, are they valid as applicable to debts contracted since their enactment?"[5]

While it wasn't overly important to follow the 1862 Legal Tender Act itself that was covered in the previous issue of *The Beacon Spotlight*, it is of vital and crucial importance for patriots now to pay very strict attention to discover how these judicial scoundrels pulled off their spectacular political coup, that helped pry loose the government's purse strings, that otherwise would have remained shut, without paper currency greasing the skids for the last 160 years.

The new Associate Justices wrote the opinion of the case (Justice Strong) and the concurring opinion (Justice Bradley).

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5. *The Legal Tender Cases*, 79 U.S. 457 @ 529 (1871).

The written words of these two scoundrels should be used against them, to condemn forever their memory in the history books, for their devious deception cleared The Administrative State to grow and prosper, as unlimited funding began to transform the federal government into a massive behemoth, of insatiable power.[6]

The best place to begin inspection of *The Legal Tender Cases* is Justice Strong's masterful run-on paragraph, that discourages far too many people, from wading into its depths:

> "Here we might stop, but we will notice briefly an argument presented in support of the position that the unit of money value must possess intrinsic value. The argument is derived from assimilating the constitutional provision respecting a standard of weights and measures to that of conferring a power to coin money and regulate its value. It is said there can be no uniform standard of weights without weight, or of measure without length or space, and we are asked how anything can be made a uniform standard of value which itself has no value? This is a question foreign to the subject before us. The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money. What we do assert is, that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative value determined by the coinage acts, or to multiples thereof. It is hardly correct to speak of a standard of value. The Constitution does not speak of it. It contemplates a standard for that which has gravity or extension; but value is an ideal thing. The coinage acts fix its unit as a dollar; but the gold or silver thing we call a dollar is, in no sense, a standard of a dollar. It is a representative of it. There might never have been a piece of money of the denomination of a dollar. There never was a pound sterling coined until 1815, if we except a few coins struck in the reign of Henry VIII, almost

> immediately debased, yet it has been the unit of British currency for many generations. It is, then, a mistake to regard the legal tender acts as either fixing a standard of value or regulating money values, or making that money which has no intrinsic value."[7]

It is important to break down this lengthy paragraph into separate thoughts, to analyze its most important parts and meanings.

To begin with, Justice Strong appropriately paraphrased the strict-constructionist's argument in support of the honorable position "that the unit of money value must possess intrinsic value," as he wrote:

> "The argument is derived from assimilating the constitutional provision respecting a standard of weights and measures to that of conferring a power to coin money and regulate its value.
>
> "It is said there can be no uniform standard of weights without weight, or of measure without length or space, and we are asked how anything can be made a uniform standard of value which itself has no value?"

This restatement was appropriate, to acknowledge that the justices heard the points raised by the attorneys arguing against legal tender paper currencies.

These attorneys' position argues that the Standard of Value must have objective and measurable parameters.

While value is subjective to the individual making it, that doesn't foreclose a relative ranking of his or her subjectivity, using an objective and quantifiable tool for measure.

For instance, that John Doe currently values A over B, B over C, C over D and D over E allows him to rank their relative value to him, given current conditions.

For example, he can place appropriate dollar values on given quantities, at given quality.

To relate values over time, it is helpful if those measures have stable meaning. Just as one gallon of measure, one minute of time, ten ounces of mass/weight, or one foot of length have fixed meanings over time, so too may one dollar be quite capable of fixed meaning, such as 25.8 grains of gold 9/10^{ths}-fine, for example. This statement is not asserting that this fixed measure purchases the same goods or services over time, which depend upon changing parameters.

Relative subjective valuation using an objective measure thus allows for measured comparisons and relative ranking between various goods and services.

The Legal Tender Cases ruling begins its odd journey into The Deep, Dark, Quagmire with Strong's next comment that followed his paraphrasing of the strict-constructionist's argument, as he peculiarly declared that coining money and regulating its value is:

> "a question foreign to the subject before us."[8]

It is critical to realize that the Court said that monetary matters were irrelevant factors in this court case which seemed to be all about money but wasn't.

These few words just quoted, and words that next followed, let the losing side know—if they were paying appropriate attention—that they had fought against paper currencies using the wrong premise.

The opinion continued on their theme, saying further:

> "The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money."[9]

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6. Of course, the other three Supreme Court justices who also voted in favor of legal tender paper currency equally deserve condemnation, as also the four justices who nominally voted against legal tender paper currencies but never spoke out against the ruling, exposing the deviousness of the opinion as found in this newsletter. One could add to that list all the justices that came later, and all the law professors, courtroom attorneys, and legal historians, who also never exposed the legal shenanigans of this and other horrid rulings.

If an office clerk/former truck driver can discover the information and help broadcast it, certainly all these learned men and women could have also, if they had any integrity and cared anything about liberty or justice.

7. *The Legal Tender Cases*, 79 U.S. 457 @ 552 – 553 (1871).

8. *Ibid.*

This precedent-setting case—the first Supreme Court case to uphold the constitutionality of Congress emitting a legal tender paper currency—is, of course, extremely important to both sides of the argument.

The court upholding paper currency as legal tender as an allowed power of Congress stated that their ruling was not supported by the congressional powers to coin money or regulate its value! Since the justices ignored all the attorney arguments on this topic, the attorneys were powerless to stop this dreadful power.

Note that it wasn't that the Court could not be stopped from reaching the conclusion they reached, it was that they could not be stopped by the wrong arguments which were wholly on the wrong page!

We yet have a *laissez faire* court system—a Wild-West version of a shootout at the O.K. Corral—where two sides duke it out, but where no judge is ever going to consider the points defendants need to win their case, *if they don't bring it up themselves.*

In other words, while *Hepburn* ruled that Congress could not emit paper currency and call it a legal tender under the enumerated power of coining money or regulating its value, *The Legal Tender Cases* Court purposefully looked elsewhere to support their ruling (just because judges don't help limited government proponents doesn't necessarily prevent them from "helping" the government [yes, the deck is decidedly stacked towards tyranny]).

The Court may only allow Congress to emit bills of credit and call them a tender in payment of debts where the Constitution itself allows it—under the exclusive legislation authority for D.C.

This last admission of the Court lets patriots know that they must look elsewhere for constitutional support for legal tender paper currencies, beyond Article I, Section 8, Clause 5 and follow the evidence, wherever it leads.

This last-quoted passage also directly admits that:

1. The Legal Tender Acts do not attempt to make paper "a standard of value;"
2. The Legal Tender Acts (and the notes they authorize) do not rest upon the assertions that:
   a. The emission of legal tender notes is "coinage;"
   b. The emission of legal tender notes is any "regulation of the value" of "money;"
   c. Legal tender notes have (inherent) "value;" or that
   d. Legal tender notes are "money."

Restated, due to the importance for understanding what was going on, *The Legal Tender Cases* Court acknowledged that legal tender paper currency:

1. is not "coinage;"
2. is not emitted as a "regulation of the value of money;"
3. is not "money;" and
4. does not have "value."

In case anyone doubts these conclusions, the Court also pointedly declared—in relation to the grant of authority by Art. I, Sect. 8, Cl. 5 (the power to coin money and regulate its value)—that:

> "We do not, however, rest our assertion of the power of Congress to enact legal tender laws upon this grant."[10]

And, if one is really dense, the Court further clarified:

> "It is, then, a mistake to regard the legal tender acts as either fixing a standard of value or regulating money values, or making that money which has no intrinsic value."[11]

The U.S. Supreme Court case which first upheld paper currencies as legal tender said it is a "mistake" to claim that the 1862 law or the 1871 court ruling that declared paper currency a legal tender had anything to do with fixing a Standard of Value or anything to do with regulating monetary value. The same ruling expressly denied that they were making paper currency "money," for paper currency has no intrinsic value, as is required of all constitutional money.

Justice Bradley's concurring opinion provides yet even additional clarification, if it is needed, saying:

9. *Ibid.*

10. *Ibid.*, Page 547. (1871).

11. *Ibid.*, Page 553 (1871).

> "I hold it to be *the prerogative of every government not restrained by its constitution* to anticipate its resources by the issue of exchequer bills, bills of credit, bonds, stock, or a banking apparatus. Whether those issues shall or shall not be receivable in payment of private debts *is an incidental matter in the discretion of such government unless restrained by constitutional prohibition.*
>
> "This power is entirely distinct from that of coining money and regulating the value thereof. It is not only embraced in the power to make all necessary auxiliary laws, but it is incidental to the power of borrowing money. It is often a necessary means of anticipating and realizing promptly the national resources when, perhaps, promptness is necessary to the national existence. It is not an attempt to coin money out of a valueless material, like the coinage of leather or ivory or kowrie shells. It is a pledge of the national credit. *It is a promise by the government to pay dollars; it is not an attempt to make dollars.* The standard of value is not changed. The government simply demands that its credit shall be accepted and received by public and private creditors during the *pending exigency*."[12]

Note Justice Bradley's purposeful connotations signaling virtually unlimited power:

- "the prerogative of every government not restrained by its constitution…" and
- "an incidental matter in the discretion of such government unless restrained by constitutional prohibition."

And, these passages weren't his only references to inherent power—he ominously said, a page later:

> "But it is said, why not borrow money in the ordinary way? The answer is, *the legislative department*, being the nation itself, speaking by its representatives, has a choice of methods, and *is the master of its own discretion*."[13]

It is no coincidence that Justice Bradley references inherent federal power, of essentially unlimited federal authority, limited only by express prohibition.

This authority cannot ever be reconciled with the Republican Form of Government for the whole Union, but only for exclusive legislation properties.

Realize that Justice Bradley's explicit reference to inherent governing power—where *"the legislative department...is the master of its own discretion"*—may ONLY be found within the U.S. Constitution ONLY under the exclusive legislation authority of Congress for the District Seat, and other exclusive legislation areas, used for forts, magazines, arsenals, dockyards, and other needful buildings.

Since Article I, Section 8, Clause 17 allows Congress to exercise "exclusive" legislation powers "in all Cases whatsoever" for the District Seat and other exclusive legislation federal enclaves—only in these places are all governing powers UNITED in ONE government.

Everywhere else, governing power is DIVIDED into enumerated federal powers and reserved States powers.

And, since no other clause of any Constitution guides and directs Congress when members enact exclusive legislation in all cases whatsoever, Congress must therefore make up all their own rules in all circumstances, within their own inherent discretion, when exercising this exclusive legislation power.

After all, no State, State-like, or District Constitution exists in D.C. to guide and direct Congress in their exercise of exclusive legislation powers that are similar with State powers, like State Constitutions exist, in each State, to guide and direct State governments.

These special federal enclaves were ceded to Congress by "particular States" for particular purposes.

Since the ceding State ceding a particular parcel of land also ceded the ability to govern that particular parcel to Congress so members could exercise exclusive legislation according to the requirements of the U.S. Constitution ("exclusively"), then after cession (and acceptance by Congress) *then the ceding State no longer has any governing authority whatsoever.*[14]

Members of Congress legislate "exclusively" as required by the U.S. Constitution, only after a particular State cedes its authority for a particular parcel of land and Congress accepts the land and exclusive authority.

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12. *Ibid.,* Page 560. Italics and underscore added.

13. *Ibid.* Pg. 561. Italics added.

It is not mere coincidence that Justice Bradley speaks of Congress being "the master of its own discretion." Members of Congress are political "masters" in their "own discretion" ONLY for the District Seat and other exclusive legislation areas—PERIOD!

The talk of unlimited powers, inherent discretion and the power to do whatever is not expressly prohibited ALWAYS points to the exclusive legislation powers of Congress. This unlimited authority only directly applies in the District Seat and exclusive legislation federal areas and may only be indirectly extended beyond those geographic boundaries, by devious legal deception, masterly performed, over people not realizing what is occurring!

In all other cases, members are chained and bound by the Constitution, to the exercise of enumerated powers, implemented using necessary & proper means.

Since emitting bills of credit and calling them a legal tender is NOT a "necessary and proper" means to an enumerated end, then the Constitution (still) prevents their emittance directly throughout the Union.

No court may ever change that, because no court can change or overrule the U.S. Constitution.

Justices may only help hide what is really going on, under the radar, by intentionally confusing the issue, because patriots can cure what they can understand.

While Canada, Australia, New Zealand and a dozen or so other countries also use a "dollar" as their monetary unit, those dollars are obviously NOT the same as an American dollar. Well, so too does the District of Columbia have its own "dollar," which is essentially every bit as different from the American dollar of gold and silver as Canada's dollar.

14. It should be directly stated that only one State has local governing authority over any parcel of land in the first place [never do two or more States govern the same tract of land]).

Also, it should also be said that no State Constitution ever binds Congress when members enact law within their exclusive legislation authority, in areas ceded by a particular State.

It should lastly be noted that except for D.C., ceding States sometimes reserved the express power to serve legal process in the ceded areas (the power to serve summons, etc., therein).

While members of Congress do NOT have the direct, enumerated power to emit paper currency and declare it a tender for the whole Union—as *Hepburn* correctly ruled—neither *Hepburn* nor the U.S. Constitution prohibited *The Legal Tender Cases* Court from later holding that members of Congress may emit paper currencies under the exclusive legislative authority of Clause 17.

And, that is ONLY what *The Legal Tender Cases* Court ruled, once one learns to read between the lines. That is why the Court said that the coining of money and regulating its value were foreign to the subject before the Court—because the Court upheld legal tender paper currency only under the exclusive legislation power of Congress for the District Seat, not the monetary clause (of Article I, Section 8, Clause 5).

Hepburn and *The Legal Tender Cases* looked at largely the same question—could Congress emit paper currency and declare it a tender—*simply for two DIFFERENT legal jurisdictions!*

Hepburn came to the ONLY conclusion the Supreme Court could ever come to, for the whole Union, until the enumerated powers of Congress are changed by a new amendment ratified by three-fourths of the States.

The Legal Tender Cases Court looked largely at that same question, but for the District Seat, under the exclusive legislation power of Congress under Article I, Section 8, Clause 17, in all cases whatsoever, where members may do whatever is not expressly prohibited them.

The makeup of the Court and the legal leanings of the justices ultimately did not matter, other than being of low enough moral fiber to deceive everyone by using devious and underhanded legal maneuverings.

It is crucial to realize that no judge nor set of judges ever have the power or authority to change the meaning of words and phrases found in the Constitution for direct use throughout the Union.

The scoundrels may only give words found in the Constitution a new meaning *in and for the District of Columbia,* which meanings are not fixed in any Constitution (federal, State, State-like or District).

A paper "dollar" may only be legal tender under Article I, Section 8, Clause 17 of the Constitution, for the District Seat.

Since *The Legal Tender Cases* opinion did not actually uphold paper currency as money under the monetary clause of the Constitution, just what did the justices actually rule?

Here's how they answered:

> "What we do assert is that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts, or to multiples thereof."[15]

This statement is largely gibberish, to help hide what was really going on, but that doesn't mean that the statement cannot be parsed out, to learn despite their intentional attempts to obfuscate what was really going on under the surface.

First, realize that the Court nominally upholding paper currency as legal tender (for the District of Columbia) calls these paper currency notes "the government's promises to pay money."

Interestingly enough, this is the same definition found in the earlier *Bronson* and *Hepburn* cases, which supposedly had opposing outcomes (helping to show, that all three cases actually treated currency uniformly, on the points that mattered).

That these three Supreme Court cases uniformly looked at paper currencies, whether they denied them as legal tender or whether they upheld them as legal tender, shows that the note's legal determination as legal tender had nothing to do with their unchanging character.

Bronson stated that "The note dollar" was a "promise to pay a coined dollar" while *Hepburn* called the paper currency notes "mere promises to pay dollars."[16]

From our earlier study of the Coinage Acts (see *The Beacon Spotlight,* Issues 29-31), readers should comfortably know that American legal tender/lawful money for direct use throughout the Union consists only of a precise amount of pure gold or pure silver, mixed with an alloy, into a proper standard of purity (the alloy added merely to minimize wear, while neither adding to nor subtracting from the coins' value, that is determined solely by pure metal weight).

By *The Legal Tender Cases'* express admission, the justices importantly did not refute this fundamental position.

The Legal Tender Cases Court only asserted and upheld, that, "for the time being:"

> "the government's promises to pay money shall be… equivalent in value to the representative value determined by the coinage acts."[17]

From this obtuse statement, one begins to understand that this 151-year-old American tradition of legal tender paper currencies rests upon a support structure so weak that it cannot be overtly admitted without directly threatening the whole kit and caboodle.

Please realize that what may be correctly diagnosed may often be, as in this case, fully cured. It is fully within our power and ability to permanently throw off legal tender paper currencies, and throw off the rest of government operating beyond the spirit of the Constitution, regardless of who wins elections or who gets appointed to any federal office.

Only by exposing to the bright light of day the intense legal deception practiced over a currently-ignorant populace may federal servants ever be stopped, for they cannot be political masters beyond the geographic confines of D.C. once we expose them as frauds.

And, that is precisely why the scoundrels have long been working so very hard, to destroy society—to get all sides to agree that the Constitution "isn't working," so they can either fundamentally alter it or start over, to legitimize their illegitimate actions, by changing the real rules, which thus far, have changed very little.

The central question to the restoration of limited powers raised by *The Legal Tender Cases* is that if the power to emit a legal tender paper currency does not rest upon this power to coin money or regulate its value, then where does that ability rest?

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15. *Ibid.*, Page 553.

16. *Bronson v. Rodes*, 74 U.S. 229 @ 251. (1869). *Hepburn v. Griswold*, 75 U.S. 603 @ 625 (1870).

17. *The Legal Tender Cases*, 79 U.S. 457 @ 553.

This newsletter argues that legal tender paper currencies are necessarily based upon Article I, Section 8, Clause 17, and the enumerated power of Congress to exercise exclusive legislation, in all cases whatsoever (while also using Article VI, Clause 2, to indirectly extend that allowed power of exclusive legislation, beyond the physical geographic boundaries of D.C.).

The next issue of *The Beacon Spotlight* will provide additional evidence, from the Court itself, helping further prove true that Clause 17 is the ultimate source of authority for legal tender paper currencies.

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.

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by Matt Erickson
October 5, 2022

The BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 37: 1884 *Juilliard v. Greenman*

The U.S. Supreme Court was not finished with paper currency with its 1871 *Legal Tender Cases* opinion, as the majority declared, in 1884 (regarding the power to declare paper currencies a legal tender), that:

> "The exercise of this power not being prohibited to Congress by the Constitution, it is included in the power expressly granted to borrow money on the credit of the United States."[1]

Casual readers undoubtedly ignore the first portion of this statement, to concentrate upon the last. But, notice the sentence structure, which involves *a priori* reasoning ("because of this, therefore that"), under which the conclusion given *is necessarily reliant upon the earlier-stated premise.*

In other words, the first part of the sentence acts as a *qualifier* for the second part, in this *cause and effect* form of reasoning. If the premise fails or is in any way limited, then the supported effect also fails or is likewise limited.

Therefore, only when and where the first portion of the sentence is true can the second portion of the sentence also be true.

If the justices of the Supreme Court had been honest, they would have admitted that "emitting legal tender paper currencies" is included "in the power to borrow money on the credit of the United States" only when and where members of Congress may exercise any and all powers they desire, except those precious few powers expressly prohibited them.

It is important to declare in plain English that the second portion of the sentence *cannot* stand on its own terms (i.e., without the first portion), as long as the Constitution as now worded stands.

This is the reason why the justices didn't simply declare their "conclusion," without first adding in their furtive premise, because the premise was necessary not only to make their statement "legal," but also to falsely imply that federal servants may everywhere do as they please (which is patently false).

The U.S. Constitution clearly stands superior to all federal servants, each if whom is required to swear an oath to support it. The Constitution as worded otherwise prohibits the emission of legal tender paper currencies in the Union of States—the United States—directly (as the Supreme Court ruled three times).

That later Supreme Court cases were able to uphold the discretionary power to emit a legal tender paper currency (in D.C.) does NOT actually overrule the earlier court cases (or the Constitution)—instead, it only added a huge asterisk next to each of them.

1. *Juilliard v. Greenman,* 110 US 421@ 448 (1884). This court case is also often referred to as (one of) *The Legal Tender Cases* ([that of] 1884).

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The later opinions only said—reading between the lines—that Congress may emit legal tender paper currencies under their exclusive legislation powers for the District Seat, where members of Congress may do anything and everything within their inherent discretion, that is not expressly prohibited them.

And, as the Court's explicitly-stated premise goes, since "The exercise of this power not being prohibited to Congress by the Constitution," then Congress may enact a legal tender paper currency (under their exclusive power, when and where members may do whatever isn't prohibited).

Remember, the U.S. Supreme Court may "re-interpret" words and phrases found in the Constitution, differently, ONLY for the District Seat and other exclusive lands, which have no fixed enumeration of powers anywhere, beyond the single clause of the U.S. Constitution, which says that members may exercise exclusive legislation "in all Cases whatsoever."

Of course, it should also be noted that neither are there any express prohibitions preventing other places—the several States, for instance (or even foreign countries)—from using this D.C. currency, if people choose or they are sufficiently duped into thinking that it is the only option allowed them.

From our careful study of the early coinage Acts of Congress and the Constitution thus far, readers know that only coined dollars of silver and gold fit within the constitutional definition of "money," at precise weights and defined purity, proportional in value as to weight.[2]

And, as shown repeatedly in *The Beacon Spotlight* newsletter, members of Congress have available to them extreme discretionary powers, beyond their enumerated powers that they may directly implement throughout the whole country.

The only "catch" is that these highly-discretionary powers—their exclusive legislation powers—were supposed to be (and are, actually) limited to the geographic confines of the District constituted as the Seat of Government of the United States.

But, devious scoundrels who seek to feather their own nests using the unlimited power for D.C. exploit a clever bypass strategy to exercise indirectly their exclusive legislation powers beyond exclusive legislation boundaries, simply by holding that Article I, Section 8, Clause 17 is yet *part* of "This Constitution" that Article VI, Clause 2 expressly declares to be the supreme Law of the Land. Thereafter, the scoundrels only need to keep quiet and cast suspicion elsewhere (like implying that they have the magical "implied" power to "interpret" various words and phrases of the Constitution to a new meaning, for instance]).

Simply put, our political opponents who seek to exercise inherent discretion *everywhere* bluff their way, using the artificial color of law offered them by using Clause 17 in conjunction with Article VI, to get indirectly over time what Alexander Hamilton could not get directly at the 1787 convention. They are able to pull off that spectacular political coup, only because patriots don't understand what we face, to fight it correctly, to finally put a fitting end to 231 years of utter political nonsense.

The wholesale failure of courtroom defendants to understand political tyranny that operates beyond exclusive legislation boundaries means defendants continuously raise the wrong arguments, assuring their continued defeat.

As ruled in *Juilliard*, Congress may emit a paper currency and declare it a legal tender, under the power to borrow money on the credit of the United States, but only as that named power expressly relates to the District constituted as the Seat of Government of the United States under Article I, Section 8, Clause 17.[3]

As that conclusion isn't self-explanatory, a deeper dive into *Juilliard v. Greenman* is necessary.

2. The Coinage Act of 1853 destroyed the strict proportionality of the subsidiary silver coinage to the silver dollar, even as their legal tender value (of those small silver coins) was limited to purchases of $5. This action effectively drove the American economy towards a gold coin standard, from its original silver coin standard, that initially also had a gold coin equivalency.

3. In his concurring opinion in T*he Legal Tender Cases*, Justice Bradley also held in 1871 that the power for legal tender paper currencies was "incidental to the power of borrowing money." 79 U.S. 457 @ 561 (1871).

The single question which the 1884 case *Juilliard* sought to answer was:

> "whether notes of the United States, issued in time of war, under acts of Congress declaring them to be a legal tender in payment of private debts, and afterwards in time of peace redeemed and paid in gold coin at the Treasury, and then reissued under the act of 1878, can, under the Constitution of the United States, be a legal tender in payment of such debts."[4]

By this passage, it appears that the first portion of the sentence admits that the 1871 *Legal Tender Cases* opinion justified legal tender paper currencies only under the special qualifier of war, while the latter portion of the sentence relating to 1884 *Juilliard* seems to be seeking removal of the need for qualifiers.

However, despite that false inference, later remarks from *Juilliard* necessarily continued to use qualifiers, such as found in this next convoluted passage (italics and underscore added for clarity):

> "Congress, as the legislature of a sovereign nation, being expressly empowered by the Constitution 'to lay and collect taxes, to pay the debts and provide for the common defense and general welfare of the United States,' and 'to borrow money on the credit of the United States,' and 'to coin money and regulate the value thereof and of foreign coin,' and being clearly authorized, as incidental to the exercise of those great powers, to emit bills of credit to charter national banks and to provide a national currency for the whole people in the form of coin, Treasury notes, and national bank bills, and the power to make the notes of the government a legal tender in payment of private debts being one of the powers belonging to *sovereignty* in *other* civilized nations, and *not expressly withheld from Congress by the Constitution*; we are irresistibly impelled to the conclusion that the impressing upon the Treasury notes of the United States the quality of being a legal tender in payment of private debts is an *appropriate* means, conducive and plainly adapted to the execution of the *undoubted* powers of Congress, consistent with the *letter* and *spirit* of the Constitution, and therefore within the meaning of that instrument, '*necessary and proper* for carrying into execution the powers vested by this Constitution in the government of the United States'."[5]

This absurdly-long single sentence contains 226 words. Within it, readers discover not only 16 commas, but the connector word—"and"—was also used 16 times. Also, find one semi-colon and four separate legal quotes, all jumbled together into one long, incomprehensible mega-sentence.

One would have to be a legal genius to follow it, by intention.

But, even with this intentional misdirection, notice again the repeated use of qualifiers—that the emission of paper currencies is not "expressly withheld from Congress" by the Constitution, for example.

This admittedly-true statement, repeated time and again throughout the opinion, only points, however, to the inherent discretion of Congress under members' exclusive legislation authority, where members may do as they please, except as specific powers are expressly withheld them.

After all, the enumerated powers that may be exercised directly throughout the whole Republic don't allow "whatever isn't expressly withheld." Instead, the true standard for the whole Union only allows what is expressly named, implemented using only necessary and proper means (with all else off-limits).

The qualifier—members of Congress being able to act, except where or how they are expressly prohibited—ALWAYS points to the exclusive legislation powers of Congress, for the District Seat and/or "like Authority" exclusive legislation forts, magazines, arsenals, dockyards and other needful buildings.

Within the masterpiece of deception noted above, notice also the Court's devious use of various constitutional catch phrases—including the "letter and spirit of the Constitution" and "necessary and proper" means—that here have meanings opposite their historic understandings.

4. *Ibid.*, Pp. 437 – 438.

5. *Ibid.*, Pp. 449 – 450.

The explicit references to key words and phrases of the Constitution should be a safe-haven for Americans to be able to accept the Court's comments, at face value.

That they are here anything but safe gives additional evidence to the lengths to which devious Supreme Court justices will go to support omnipotent federal powers, even though their words would be permanently written down for all later generations to investigate, to discover just how devilish were the political deviants who supported inherent discretion falsely extended beyond proper legal boundaries.

Emitting paper currencies may be within the "letter" of the Constitution, it may be true, but ONLY because Article I, Section 8, Clause 17 is also found within the Constitution's express words.

Discussing the "spirit" of the Constitution should also be a strong barrier for the crooks and cheats to breach, but evidently even it isn't safe. Realize, though, that the full spirit of the Constitution must include the alternate exclusive legislation powers of Congress for the District Seat, since Article I, Section 8, Clause 17 is *part* of "This Constitution."

Lastly, there was the express mention of "necessary and proper" means being used to implement the enumerated powers of Congress.

Surely, this phrase should be safe, right?

Wrong. Sadly, the justices of the "honorable" U.S. Supreme Court evidently believed no offense was too great in their quest to uphold absolute tyranny far and wide, as to hold anything sacred from their deceit.

Notice, however, *where* the Court claimed "necessary and proper" means were in this instance [instead] vested—"the government of the United States."

It is no coincidence that *Juilliard* could here reference a different meaning for "necessary and proper" than the Constitution meant, when the majority pointed to "the government of the United States" (rather than "the Congress of the United States" [or simply "Congress", or "the United States"]). Because, of course, Congress may NOT emit legal tender paper currency in a "necessary and proper" manner for the whole "United States" as the term "United States" is meant by the Constitution.

After all, one may easily discover *where* the U.S. Constitution actually vests the true enumerated legislative powers—Article I, Section 1 clearly indicates that the enumerated legislative powers are vested in "a Congress of the United States," which Congress "shall consist" of "a Senate and House of Representatives."

There is every bit the fundamental difference between "the United States" and the "Government of the United States," as there is between "members" of Congress and federal "officers."

The "Government of the United States" does NOT include Congress, and members of "Congress" are NOT part of the "Government of the United States."

The Government of the United States is the executive and judicial branches, where officers of the United States—the hired guns of government—are found.

"The United States"—as that term is understood by the Constitution—references the collection of States and is thus always a plural term, in its constitutionally-correct form ["they" and "them," NOT "it"]).

Art. III, Section 3 provides the clearest example of this principle, saying:

> "Treason against THE UNITED STATES, shall consist only in levying War against THEM, or in adhering to THEIR enemies…"

"The United States" correctly understood, means the States united together in common union, much like a family is composed of individual members, even as there is no literal family unit having outside existence apart from its collection of separate individuals who share a common bond.

Note that individuals can exist outside the family unit but the family unit cannot exist outside the individuals who comprise it. If one eliminates the individuals, then the family is also necessarily eliminated, but destroy the family unit and the individuals may still go their separate way, thereafter unconnected.

The same is true of the United States—the States cannot be eliminated without simultaneously eliminating "the United States" (as the Constitution understands that term), but the United States may be eliminated, with the States remaining (thereafter fully independent from one another, as nation states).

The "Congress" "of the United States" is the meeting of the several States together through their elected delegates who attend the group meeting to work out common concerns, as enumerated by their guidebook, according to its earlier-approved format.

In important distinction, members of Congress hold legislative seats, not "offices" under the [government of the] United States.

In fact, Article I, Section 6, Clause 2 of the U.S. Constitution expressly details that no person holding any "office" under the United States shall ever be a member of Congress "during their Continuance in Office."

This latter part of Art. I, Sect. 6, Cl. 2 resolutely establishes the Separation of Powers Doctrine, firmly upholding Legislative Representation, the fundamental building block of our Union. This clause marks the non-combinable DIVIDE that permanently exists between (and clearly separates) federal officers from members of Congress.

Only members of Congress as delegates of the States are given the enumerated legislative powers, which cannot ever be delegated to federal officers.

The exclusive legislative powers, however, MAY be delegated to federal officers (because exclusive legislation powers do NOT have attached to them any guarantee of legislative representation nor a guarantee of a Republican Form of Government [D.C. residents have no legislative representation in Congress, which "District" is NOT a "State" guaranteed a Republican Form of Government]).

So, together, members of Congress from the States and the federal officers of the Government of the United States work in conjunction with one another and perform their separate delegated functions, for the good of the Union.

Article I, Section 8, Clause 18 of the U.S. Constitution confirms this understanding, saying:

> "Congress shall have Power…To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

By this clause, members of Congress are given the express power to carry into effect the foregoing powers—the "foregoing" powers speaking to the [legislative] powers which the Constitution enumerates *before* Article I, Section 8, Clause 18 (i.e., Art. 1, Sections 1 - 8 [especially Article I, Section 8, Clauses 1-17]), using necessary and proper means.

By the latter portion of Clause 18, however, members of Congress are also given the necessary and proper means to carry into execution "all other Powers" vested by "this Constitution" in the *"Government of the United States,"* as well as all other powers vested in the various government departments or individual officers directly (that follow in the Constitution *after* Clause 18 [i.e., as covered in Articles II and III {but also IV, V, VI, and VII, to any extent therein applicable}]).

In other words, in the first part of Clause 18, members are given the necessary and proper means for carrying into execution the legislative powers vested in them—in the latter part of the clause, members are given the necessary and proper means for carrying into execution the executive powers vested in the President and the judicial powers vested in the courts. Thus, in t*he Government of the United States* are vested the executive and judicial powers, which members of Congress may yet implement using necessary and proper means.

One must realize that in our normal constitutional government model—our Republican Form of Government—the whole of the Constitution provides many express parameters for allowable government action that may be directly implemented throughout the whole Union. Those powers are well-defined by a written Constitution which may be studied and continuously referenced.

Likewise with the State governments—one may look to the various State Constitutions to study the allowable powers of each State. One may also look to the U.S. Constitution, for the few express prohibitions against "States" therein delineated.

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6. See *The Beacon Spotlight,* Issue 5, for further elaboration on this critical point, which centers on a Republican Form of Government—Legislative Representation—with its Separation of Powers Doctrine.

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But, what exactly are the exclusive legislation actions available within the District constituting the Seat of Government of the United States?

What are the allowable parameters allowed there?

Where does one go to study *those* powers?

The only place where any permanent explanation exists ("permanent" meaning here "outside the discretion of federal servants" [in a written Constitution unalterable by those who exercise its delegated functions]) for the exclusive legislation powers of Congress is the seventeenth clause of the eighth section of the first article of the U.S. Constitution. And there, of course, it only details that Congress may exercise "exclusive" legislation "in all Cases whatsoever" (in the District Seat and "like Authority" forts, magazines, arsenals, dockyards and other needful buildings).

Apart also from a few named prohibitions found in the Bill of Rights that prohibit Congress from doing a number of things (even for the District Seat), little else of a permanent nature may be found, anywhere.

Most everything is thus up for debate and up for grabs in the District Seat, among those who are able to exercise the powers *chosen within their own discretion*.

In D.C., members of Congress and federal servants are thus Masters of Their Own Cause, largely able to do as they please, in all cases whatsoever.

The inherent discretion of Congress was pointedly repeated time and again in the 1884 court case, as it was in the 1871 case. In each instance, the majority of the Court pointed to unusual circumstances and special concerns, topics that have no material relevance for the whole Union, but do have relevance in and to the District Seat (because Congress may there do extraordinary things, in extraordinary situations, because everything there is up to their discretion, and greater need may translate into greater action).

The earlier-quoted monstrous passage in *Juilliard* continued its theme with a new sentence, in a new paragraph, saying:

> "Such being our conclusion in matter of law, the question whether at any particular time, in war or in peace, the *exigency* is such, by reason of *unusual and pressing demands* on the resources of the government or of the *inadequacy* of the supply of gold and silver coin to furnish the currency needed for the uses of the government and of the people, that it is as matter of fact wise and *expedient* to resort to this means is a *political* question, to be determined by Congress when the question of *exigency* arises, and not a judicial question, to be afterwards passed upon by the courts."[7]

This sentence was another doozy in its own right, containing 107 words, 8 commas, two alternatives ("or") and five connector words ("and") bridging together another jumbled group of thoughts.

As briefly mentioned earlier, *Juilliard* admitted that *The Legal Tender Cases* Court had ultimately looked at paper currency "issued in time of war" but *Juilliard* was now looking into whether those notes later redeemed "in time of peace" could be "reissued under the act of 1878."

In other words, the later ruling again admits the earlier ruling looked at special circumstances involving an extraordinary event, which proved critical in *The Legal Tender Cases* Court initially upholding the emission of legal tender paper currencies, under the 1862 Act.

Thus, it is not especially surprising that in *The Legal Tender Cases*, in both the opinion and concurring opinion, used the terms "emergency," "exigency," "contingency" or "necessity" (or their plural forms) no less than 31 different times, on 19 different pages.[8]

Therefore, even in the district constituted as the seat of government of the United States, in 1871, even the highly deceptive Court only upheld the emission of legal tender bills of credit only due to the extraordinary circumstances of the earlier-engaged war!

The *Juilliard* Court was being later called upon to answer if legal tender notes which had been issued in times of pressing urgency and afterwards paid off, could yet be reissued and still declared a legal tender even in time of peace, now under the Act of 1878.

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7. *Ibid.,* Page 350. Italics added

8. *The Legal Tender Cases*, 79 U.S. 457 @ 529, 534, 536, 537, 538, 540, 541, 542, 546, 556, 558, 560, 561, 562, 563, 564, 565, 567 & 568. (1871).

The *Juilliard* Court answered this question in the affirmative, saying:

> "Upon full consideration of the case, the court is unanimously of opinion that it cannot be distinguished in principle form the cases heretofore determined..."[9]

But, remember what the Court earlier said:

> "Such being our conclusion in matter of law, the question whether at any particular time, in *war* or in peace, the *exigency* is such, by reason of *unusual and pressing demands* on the resources of the government, or of the *inadequacy* of the supply of gold and silver coin to furnish the currency needed for the uses of the government and of the people, that it is, as matter of fact, wise and *expedient* to resort to this means, is a *political* question, to be determined by Congress when the question of *exigency* arises, and not a judicial question, to be afterwards passed upon by the courts."[10]

By these words, the 1884 Court was moving away from the need to examine particular exigencies, and thus it is not surprising that *Juilliard* didn't make near as many references to pressing circumstances as had the 1871 Court.

Nevertheless, notice this passage still speaks repeatedly to "[the question of] exigency," "unusual and pressing demands," "inadequacy of the supply of gold and silver coin," and "expedient."

Instead of continuing to concentrate on particular, named circumstances, *Juilliard* largely switched gears, instead concentrating more upon the "sovereign" actions of omnipotent members of Congress, using the words "sovereign" or "sovereignty" nine times, on seven different pages.[11, 12]

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9. *Juilliard v. Greenman,* 110 U.S. 421 @ 438. 1884.

10. Ibid., Page 422. Italics added.

11. Ibid: Pp. 438, 439, 440, 441, 447, 449, and 450.

12. Not coincidentally, Justice Strong (in his opinion) and Justice Bradley (in his concurring opinion) also repeatedly referenced "sovereignty" in *The Legal Tender Cases*, 79 U.S. 457 @ Pages 529, 533, 545, 555, 559, 561, 563, and 564.

In other words, *Juilliard* effectually limited Judicial Review of Congressional claims of exigent circumstances, allowing Congress thereafter to make the call without further questioning by the Court (an arbitrary action, made more fully capricious). Of course, the inevitable effect of this action was to pre-approve Congressional action (without later questioning by the courts).

And, that is exclusive legislative authority of Congress, in a nutshell—unquestioned discretion by those who exercise the exclusive powers—except as the Constitution or other more-controlling legislative/court action otherwise limited or prohibited.

Since *Juilliard* essentially ruled that *any* exigency declared by Congress was thereafter largely going to be a sufficient pretext for members to act as they saw fit, it is again not surprising that *Juilliard* didn't spend a great deal of time on the topic of political expediency.

It no longer much mattered if the extraordinary demand placed upon government was war, economic calamity, a shortage of gold and silver coin, or any other proffered excuse, it would likely *always* be within the discretion of Congress to determine the nature of the difficulty and then the appropriate response, as determined under members' inherent discretion, that could not thereafter be questioned.

And, without express prohibitions against acting in a certain manner, then Congress could act—like by declaring paper currency a legal tender.

But, it is yet important to note that while the precise nature of the extraordinary circumstance no longer much mattered, the *Juilliard* Court nevertheless clearly inferred some exigency was yet necessary, no matter how trivial, for Congress still to be able to do extraordinary things—like, in this case, making bills of credit a legal tender.

As far as inherent discretion went, the 1884 Court more fully put into effect, Alexander Hamilton 1791's words, when he said of the "in all Cases whatsoever" wording of Article I, Section 8, Clause 17:

> "language does not afford a more complete designation of sovereign power than in those comprehensive terms."[13]

Remember, words in the Constitution for the Republic MUST keep the meaning assigned to them as they meant at the time of ratification, except as amendments later-ratified by the States change them, because members of Congress and federal officials NEVER have the power, means or ability to change the U.S. Constitution.

The ONLY exception is for exclusive legislation, under which members of Congress, bureaucrats or judges may redefine words and phrases found in the Constitution, differently, for D.C., at their pleasure.

And, although the U.S. Constitution DIVIDES governing powers throughout the Union into enumerated federal powers and reserved State powers—within the District Seat, the Constitution allows CONCENTRATION of all governing powers in Congress and the U.S. Government.

And, since no State, State-like or District Constitution exists for D.C. like State Constitutions exist for States, then there is nothing that prevents members of Congress (or the Court) from taking words and phrases found in the U.S. Constitution, but giving them DIFFERENT meaning, in and for the District Seat as they make up their own rules there.

To see just how far the 1884 *Juilliard* Court went to uphold the power of Congress to emit bills of credit (ultimately only for the government seat), consider also the following masterpiece (which run-on paragraph is here broken up for greater ease of understanding [with italics and underscore added]):

> "that Congress has the power to issue the obligations of the United States in such form, and to impress upon them such qualities as currency for the purchase of merchandise and the payment of debts, as accord *with the usage of sovereign governments.*
>
> "The power, as incident to the power of borrowing money and issuing bills or notes of the government for money borrowed, of impressing upon those bills or notes the quality of being a legal tender for the payment of private debts, *was a power universally understood to belong to sovereignty, in Europe and America, at the time of the framing and adoption of the Constitution of the United States*.
>
> *"The governments of Europe, acting through the monarch or the legislature, <u>according to the distribution of powers under their respective constitutions</u>*, had and have as *sovereign* a power of issuing paper money as of stamping coin.
>
> "This power has been argued and fully considered, in which the Emperor of Austria, as King of Hungary, obtained from the English Court of Chancery an injunction against the issue in England, without his license, of notes purporting to be public paper money of Hungary."[14]

One must be careful not to ascribe too much meaning to such legal filler designed to confuse the reader, to lead him or her astray.

Is it true that the Emperor of Austria, as King of Hungary, obtained an injunction from the English Court of Chancery?

Undoubtedly, since the Court brought it up; but so what?

That otherwise-irrelevant foreign matters (and pre-Constitution domestic matters) are pressed here in the U.S. after ratification, merely points to the high level of desperation of those who propound such a position.

That these efforts have had the winning hand for 125 years sadly shows our level of constitutional ignorance.

Like the *Juilliard* Court's earlier comment speaking to the "*sovereignty* in <u>other</u> civilized nations" which powers were "not expressly withheld from Congress by the Constitution," the Court's repeated pointing to government sovereignty as the source of power for our Congress simply admits too much.

This is especially true in the passage where the court expresses concern for the "distribution of powers" of the "governments of *Europe* under *their respective constitutions*."

13. https://avalon.law.yale.edu/18th_century/bank-ah.asp

14. *Juilliard v. Greenman,* 110 U.S. 421 @ 447. 1884. Italics and underscore added.

Must we seriously believe the Court's inference that European constitutions (which distribute power to respective European nations) influence our form of government but our own Constitution does not (if they were truly meaning to discuss our Republican Form of Government of the Union)?

Since the *Juilliard* court's comments make no sense if one thinks of our normal constitutional government model of delegated federal powers, then obviously this must necessarily be the wrong government model used to support legal tender paper currencies!

Since we know that the U.S. Constitution actually authorizes *two* opposing forms of government—our Republican Form of Government guaranteed every State of this Union under Article IV, Section 4 of the Constitution and a virtual, if not literal, federal tyranny allowed under Article I, Section 8, Clause 17—we need to ask if the court's comments make sense in light of the latter government model.

Without any State, State-like or District Constitution existing in D.C. to guide and direct members of Congress and federal servants, to help them know what to do, perhaps it is relevant to know what powers widely belonged to sovereign, western-style governments at the time the Constitution was ratified and the District created, for this knowledge may help determine from which powers Congress may ultimately choose to exercise in the District Seat, so that the slate is not completely blank.

Looking to sovereignty—looking to powers outside the those granted by ratification of the Constitution—is only appropriate for the District constituted as the Seat of Government of the United States.

No form of government the world over has ever existed with such raw, undefined power, of a single authorizing statute which simply authorizes the government to act "in all Cases whatsoever" along with only a relative handful of express prohibitions later added.

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15. Ibid., Page 450.

16. Not coincidentally, Justice Strong (in his opinion) and Justice Bradley (in his concurring opinion) also repeatedly referenced "*sovereignty*" in *The Legal Tender Cases*, 79 U.S. 457 @ Pages 529, 533, 545, 555, 559, 561, 563, and 564.

Perhaps it is quite reasonable for the Supreme Court to look to other nations and their sovereign powers, to see what was common in western style, European governments, at the time of our nation's founding, figuring out which powers Congress could exercise, within their exclusive legislation properties.

In other words, the Court's examination into sovereign powers of foreign nations here serves as a possible *restriction* upon the otherwise unfettered discretion of Congress, for the District Seat (unfettered except as the Constitution/Bill of Rights, etc., also restrict).

The Supreme Court isn't able to look much to the remainder of the U.S. Constitution for guidance for the exercise of D.C. exclusive legislation powers, because the whole of the Constitution only has one clause directed to the District Seat. This is the reason for looking at *other countries'* constitutions, which do happen to control the gamut of available governing actions (of course, our State Constitutions do NOT look to federal and international concerns).

The United States ultimately have both the MOST- and LEAST-restricted forms of government on the planet.

The most-restricted form of government is for the Union of States—our Republican Form of Government enumerated within the U.S. Constitution, that may be implemented throughout the Union, using necessary and proper means.

The least-restricted government on the planet is for the exclusive legislation powers allowed for the District Seat—where members of Congress and federal officials may do anything and everything within their inherent discretion, except as they are expressly prohibited.

Sadly, by default—because of our ignorance—we have been increasingly operating under the exclusive legislation powers of the District Seat.

No wonder these United States have drifted so far from the spirit of the Constitution!

Anytime one hears, sees, or reads of pressing concerns, unusual circumstances, emergencies, exigencies, or federal sovereignty, in any Act of Congress, Presidential Order, bureaucratic regulation, or federal court opinion, rest assured that this divergence from our true government rests wholly upon the exclusive

legislation authority of Congress and the U.S. Government, in and for the District of Columbia.

This "exclusive legislation" authority for special federal areas is the only Form of American Government where Congress may act in all cases not otherwise prohibited, within members' inherent discretion, where members may even in times of dire need, exercise extreme discretionary powers.

Therefore, the "exercise of this power" for the District constituted as the Seat of the Government of the United States "not being prohibited to Congress by the Constitution," Congress may in the exclusive legislative District Seat, emit these paper currencies and there designate them a legal tender.

On a related side note, please realize that the *Juilliard* Court not only claims that the power "to borrow money" authorizes the emission of bills of credit (creating new government securities), but in effect authorizes Congress to regulate the value of the money *it borrows* (because additional issuance in great quantities certainly decreases the value of all previously-issued money.

Because members of Congress are expressly empowered with the enumerated power "To coin Money, *regulate the Value thereof;* and of foreign Coin," Congress may regulate the value of money members coin.

Congress may also regulate the American value of foreign coins of silver and gold that members of Congress make current as American money, again by express constitutional authority.

But nowhere in the Constitution are members of Congress ever expressly empowered to regulate the value of money (substitutes) *they borrow*.

Since regulating the value of borrowed money (different from the money members of Congress coin) is not a necessary and proper means to implement an enumerated end, this also confirms that members may not make paper currency a legal tender may not be done, except where members may do as they please, when and where they are not expressly prohibited from doing so.

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by Matt Erickson
November 11, 2022

The BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 38: Final Thoughts on Paper Currency

Any fairly-thorough investigation into *The Legal Tender Cases* opinions of 1871 and 1884 should consider examining the Courts' intentional twisting of the June 28, 1834 Coinage Act, nominally in support of the justices' otherwise insupportable decisions, upholding paper currency as legal tender (even as paper was upheld as a legal tender only for the District Seat).

These two *Legal Tender Cases* opinions falsely implied that Congress in 1834—in regulating the value of coinage—unjustly deprived American creditors of their legal due, no different than legal tender paper currency opponents rightfully charged against the 1862 legal tender Act.

The primary position of the 1871 and 1884 opinions seemed to argue if members of Congress in 1834 could skewer creditors a little, then the members of Congress of 1862 could skewer creditors a lot.

Yet, in the very next breath, the 1871 Court also expressly admitted that with enactment of the 1834 Coinage Act, it:

> "would have been a bold man who had asserted that…the obligation of the contract was impaired or that private property was taken without compensation or without due process of law. No such assertion, so far as we know, was ever made."[1]

1. *The Legal Tender Cases,* 79 US 457 @ 552. 1871

The apparent duplicity of the Court one moment to the next—talking out of both sides of their mouths, at differing times in each of these two court cases—provides fair evidence that something slimy is going on under the radar, into which the reader must dig to parse out the truth.

Apologists' carefully-constructed lies routinely twist small bits of truth to cover their deception, to "help" ill-informed and misunderstanding Americans jump to false conclusions, without the Court ever coming out and giving overtly-false statements.

For example, the 1884 *Juilliard v. Greenman Legal Tender Cases* opinion minimally broached the topic, when the majority wrote:

> "So, under the power to coin money and to regulate its value, Congress may (as it did with regard to gold by the Act of June 28, 1834, c. 95, and with regard to silver by the Act of February 28, 1878, c. 20) issue coins of the same denominations as those already current by law, but of less intrinsic value than those by reason of containing a less weight of the precious metals, and thereby enable debtors to discharge their debts by the payment of coins of the less real value."[2]

2. *The Legal Tender Cases (Juilliard v. Greenman),* 110 US 421 @ 449. 1884. The parenthetical comment within the quoted passage was found within the citation itself.

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Two longer passages in the 1871 *Legal Tender Cases* opinion went even further.

The first passage said:

> "No one ever doubted that a debt of one thousand dollars, contracted before 1834, could be paid by one hundred eagles coined after that year, though they contained no more gold than ninety-four eagles such as were coined when the contract was made, and this, not because of the intrinsic value of the coin, but because of its legal value. The eagles coined after 1834 were not money until they were authorized by law, and had they been coined before, without a law fixing their legal value, they could no more have paid a debt than uncoined bullion, or cotton, or wheat."[3]

And, the second passage from the 1871 opinion went the greatest distance to disparage the 1834 Coinage Act, saying:

> "By the Act of June 28, 1834, a new regulation of the weight and value of gold coin was adopted, and about six percent was taken from the weight of each dollar. The effect of this was that all creditors were subjected to a corresponding loss. The debts then due became solvable with six percent less gold than was required to pay them before. The result was thus precisely what it is contended the legal tender acts worked. But was it ever imagined this was taking private property without compensation or without due process of law? Was the idea ever advanced that the new regulation of gold coin was against the spirit of the Fifth Amendment? And has anyone in good faith avowed his belief that even a law debasing the current coin by increasing the alloy would be taking private property? It might be impolitic and unjust, but could its constitutionality be doubted? Other statutes have from time to time reduced the quantity of silver in silver coin without any question of their constitutionality. It is said, however, now that the act of 1834 only brought the legal value of gold coin more nearly into correspondence with its actual value in the market or its relative value to silver. But we do not perceive that this varies the case or diminishes its force as an illustration. The creditor who had a thousand dollars due him on the 31st day of July, 1834 (the day before the act took effect), was entitled to a thousand dollars of coined gold of the weight and fineness of the then existing coinage. The day after, he was entitled only to a sum six percent less in weight and in market value, or to a smaller number of silver dollars. Yet he would have been a bold man who had asserted that because of this the obligation of the contract was impaired or that private property was taken without compensation or without due process of law. No such assertion, so far as we know, was ever made. Admit it was a hardship, but it is not every hardship that is unjust, much less that is unconstitutional; and certainly it would be an anomaly for us to hold an act of Congress invalid merely because we might think its provisions harsh and unjust."[4]

Shame on the Courts for their duplicitous deceit, when a full and open comparison between the Coinage Acts and the paper currency Acts readily shows their vast differences, even if it takes a fair amount of intricate explanation to see through the Courts' infernal deception.

For instance, from the last-cited quote, concentrate on these words:

> "By the Act of June 28, 1834, a new regulation of the weight and value of gold coin was adopted, and about six percent was taken from the weight of each dollar. The effect of this was that all creditors were subjected to a corresponding loss. The debts then due became solvable with six percent less gold than was required to pay them before. The result was thus precisely what it is contended the legal tender acts worked."

First off, all legal "debts" that were due in 1834 were due in "money" or "dollars"—despite inferences and claims otherwise—they were never "required" to be paid in gold.

3. *The Legal Tender Cases*, 79 US 457 @ 548-549. 1871 (the lower cases of *Knox v. Lee, Parker v. Davis,* heard jointly).

4. *Ibid.,* @ 551-552.

"Debts" payable in "money" or "dollars" necessarily and legally referenced silver dollars *or* gold eagles (which gold eagles were legally valued in dollars).

Silver was during this era a full legal tender for all debts—and it was the debtors who always had the discretion as to the choice of monetary metal to pay off their debts (gold clause contracts weren't a thing until decades later [until after the post-1862 paper currency shenanigans came into the picture]).

Since gold was never actually "required" to be paid for any dollar-denominated debts before, during, or for some time after 1834, no creditor was thus "subjected to a corresponding loss" by the 1834 Coinage Act. And, that cold, hard fact is why the Court admitted "No such assertion, so far as we know, was ever made."

It also needs to be expressly mentioned that any obligations that were not due in monetary "dollars" in 1834, but were instead payable in a specific number of grains of fine or standard gold, were not affected by the 1834 Coinage Act.[5]

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5. See the last sentence of footnote 3 above, which acknowledges that gold coins at weights [and purities] different from "current" money are not legal tender money, in that condition, even as their dollar value may otherwise be ascertained.

Current money—current Coin—necessarily looks first to the weights and purities for valuation, referring to the current or then-operational Coinage Act, which had neither been repealed nor replaced. "Current coin" or "current money" is money that has not been made obsolete by new monetary standards.

So, any gold coin or gold bullion outside of then-current weights and fineness must have its purity ascertained so its pure-gold weight and value *may then be accurately calculated* (in strict proportion to weights and values of current coin).

Therefore—using the Court's example—a gold coin with 6% less weight than that of the 1792-era ten-dollar eagle would be valued not at $10.00, but $9.40, prior to July 31, 1834 (but afterward, was valued at $10.00).

Remember, the true legal tender value of any 1792-era coin was never determined by a stated value, but only actual weight of standard metal physically weighed at time it was being paid ("at values proportional to their respective weights," according to Section 16 of the 1792 Coinage Act).

Now, if a debtor *chose* to pay his debts in gold in early 1834, which was before the 1834 Coinage Act went into effect, then it is true that the debtor would have necessarily used 6.2626% more gold than if he had paid the same debt on or after July 31, 1834, when the June 28, 1834 Coinage Act went into effect.[6]

Debtors intuitively seek to pay in the cheapest-available lawful money that is payable for their debt, which in early 1834 was silver. But, that doesn't mean they must use the cheapest-available money; that they *couldn't* choose to pay in the higher-priced metal.

In other words, the Court's hypothetical example doesn't even fit within their required "cases and controversies" standard of Article III (realize courts are effectively prohibited from hearing overtly-moot cases or hypothetical controversies).

Assuredly, debtors before 1834 uniformly paid in silver (here, ignoring State-issued bank paper notes [which could be refused by creditors, since they weren't a legal tender, especially if the paper wasn't being fully discounted to its specie-equivalent market rate]).

Only after the effective date of the 1834 Act—when both metals were finally again valued legally at their market values—would debtors again routinely start paying creditors in gold or in silver, when both metals were finally valued at value-equivalent legal rates.

In the last-quoted passage above, the 1871 *Legal Tender Cases* Court claimed that the result of the 1834 Coinage Act "was thus precisely" the same as what opponents of the legal tender Acts later contended. Utter nonsense.

Only looking from the most general of perspectives could that statement have any truth attached to it; but, to the extent that it could be true, the mechanisms involved are yet necessarily completely different.

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6. This hypothetical story presupposes that the debtor could even find the scarce metal to pay before implementation of the 1834 Act (gold had long been undervalued at law at home, meaning much of it had been sold abroad during the decade before, where people could receive gold's true market rate. Thus, the American gold supply had fallen precipitously, such that little remained at home. Gold didn't enter into normal circulation at home unless and until the owners of gold were given gold's true market value).

The 1871 Court, in their list of four questions, first admitted that no known 1834-era creditor ever claimed that they were unjustly robbed by the 1834 regulation of gold coins. That, of course, was because the 1834 Coinage Act regulating monetary value didn't rob anyone.

So, why did the Court unreasonably attempt to equate the two incompatible Acts—the 1834 Coinage Act and the 1862 Legal Tender Act? The answer was so that the justices could falsely imply that since the 1834 Coinage Act wasn't unreasonable, then so too should the 1862 Act also not be unreasonable. But, since the two Acts were wholly dissimilar where they mattered, then the 1862 Act could still be, and was, unreasonable, which is why the Supreme Court resorted to such unseemly contortions.

Recall *The Beacon Spotlight* coverage of the 1792 Coinage Act, in Issue 29 (March, 2022), when Congress established the "dollar" as a coin of silver, of 416 grains, 1,485/1,664^{ths}-fine (371.25 grains of pure silver) as our Standard of Value. Fractional silver coins were also struck, in proportional fractional weights, at proportional values.

Gold "eagles" were also struck, in the weight of 270 grains of gold 11/12^{ths}-fine (247.5 grains of pure gold) and declared to be valued at ten "dollars" (and fractional gold coins, at proportional fractional values).

Recall also *The Beacon Spotlight* coverage of the 1834 Coinage Act, in Issue 30 (April, 2022), where members of Congress gave a new higher monetary valuation to the heavier older gold coins struck under the 1792 Coinage Act (94.8 cents/pennyweight [which amounted to $10.665, per full weight 1792-era gold eagle]).

The 1834 Act also reduced the weight of new gold coins, without changing their face value—the 1834 Act lightened the new 1834 eagle to be 258 grains of gold, in a coin of 232 grains of pure gold, also with a face value of $10.00.

Congress took these steps in 1834 to bring back into balance the fixed legal ratio between silver and gold, that had fallen out of sync with the world market rates, since their ratio legally set in 1792 changed over time. Congress set the 1792-era gold coins to their new market values\, as found in 1834, which was proper.

While the 1792 Coinage Act had fixed pure gold to be monetary equivalent in like-weights of pure silver to be 15 times more valuable, the 1834 Standard changed the ratio to 16:1.

Congress didn't actually need to strike new, lighter-weight gold coins at a rounded dollar values in the second step of the 1834 Act.

Of course, if the silver-to-gold ratio would likely remain stable for a sufficient period of time, then it would certainly be far more convenient for customers to spend gold coins with rounded dollar figures (i.e., $10 [instead of continuing to spend into circulation the heavier-weight older eagle coins, such as the 1792-era gold eagle worth $10.665 when of full weight]).

Recall that the 1792 Coinage Act, by Section 16, gave all coins of given purity a legal tender value only at their measured weight. Each government officer was required to weigh all coins made in payment at government offices, to determine an accurate legal value. Private shop owners were expected to do the same, but of course, weren't forced.

Only partially in 1834 (and fully, in 1837) did the art and science of striking coin finally advance far enough to start legally allowing coins to pass at their stated values (by *tale* [by *count* of coins, at their stated value {now more-accurately struck in precise weight and defined purity than ever before}]).

When Article I, Section 8, Clause 5 of the U.S. Constitution speaks to "regulating the Value" of coined money, this "regulation" primarily involves giving coins of gold or silver, struck at specific weights and defined purities, a specific legal monetary value, as found first in the 1792 Coinage Act.

In the 1792 Coinage Act, within their enumerated discretion, Congress established our monetary unit to be one "dollar," even as the Constitution itself does not specify the name of the monetary unit, nor does the Constitution even directly point to the metals Congress may directly use to strike our money.

That said, Article I, Section 10, Clause 1—which prohibits the States from coining money, emitting Bills of Credit, or making anything but gold and silver Coin a Tender in Payment of Debts—indirectly acknowledges that our legal tender coins struck by order of Congress would consist of gold and silver, that

the States could then make a legal tender within their borders. Copper was too impure to accurately refine at the time, so it wasn't ever made a legal tender, even as the cent and half-cent were given a monetary value of 1/100th and 1/200th of a dollar, respectively.

Note also that Article I, Section 9, Clause 1 uses the term "dollars" (as does the later-ratified Seventh Amendment), although this term here specifically points only to the Spanish milled dollar, which at the time was merely the most common market coin found in the United States (after which the U.S. dollar was modelled), without legal sanction in any State.

The 13 States—prior to 1792—each had their legal monetary units denominated in pounds, shillings and pence, in one of five standards of weights and purity, with each of the five standards referring to differing amounts of silver (needing exchange rates to trade between the separate monies of the separate colonies/States, even as the units involved all had the same names [creating vast confusion, if extreme care wasn't used to determine precise legal value]).

The idea that Congress could ever successfully fix the ratios of the various monetary metals for all time, so the coins wouldn't ever need later regulation (like what was done in 1834) was never expected, even if one could argue members gave it their best shot.[7]

Since Congress instituted a silver coin standard along with gold coin equivalency in the 1792 Coinage Act, then anytime market ratios later changed, meant that Congress should "regulate" the value of the gold coins and leave alone the silver coins (because the purpose for establishing a "standard" is to create a fixed reference for the comparison of all like things [so the primary or true standard shouldn't change]).

And, that is precisely what the 1834 Coinage Act did—it left alone the silver coins and "regulated" the weight and value of the gold coins, thus reestablishing the fixed ratio between the two monetary metals to their world market ratios.

The only real mistake made by Congress in 1834 was waiting so long to act, when gold and silver ratios began fluctuating in the 1820s. Indeed, a case could be made that by refusing to act sooner, the United States drifted towards a single-metal (silver coin) standard, since gold was undervalued at law, which drove it out of the marketplace and from our shores.

By refusing to act sooner, the law gave holders of silver an indirect subsidy, by artificially holding their silver holdings at too high of value, relative to gold, which had increased in value worldwide. It was proper for Congress by 1834 to remove the unintended prior subsidy, and hold both gold and silver at their true market rates.

But, by 1853, the tables turned and silver began to rise in value, effectively erasing the gains earlier made by gold, such that it was necessary to change the ratios once again. Recall the coverage in *The Beacon Spotlight*, Issue 31 (May, 2022).

Congress met very little market resistance in 1834, when members *increased* the dollar value of the old gold coins, and struck newer gold coins lighter in weight at their previous value, to value gold at law equal to its true market value.

However, in 1853, after silver had recently risen in value relative to gold, erasing gold's earlier gains, members would then need to look at *lowering* the value of the 1834 gold coins, and possibly strike new gold coins in 1853, essentially at old, 1792-era heavier weights.

This proposal would meet considerable market resistance, understandably.

Imagine, for example, the level of interest from depositors turning in raw gold or old gold coins, to the mint, that would have earlier been sufficient to make one hundred 1834 gold eagles, but after readjustment in 1853, would only return them ninety-four heavier 1853 eagles. This would have effectively turned $1,000 worth of 1834 gold into approximately $940 of 1853 gold.

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7. *See,* for example, *The Bland-Allison Act* of February 28, 1878 ([20 Stat. 25] Chap. 20, Section 2), and the call of Congress for an international conference, of Latin American and European nations, to join the United States in adopting "a common ratio between gold and silver, for the purpose of establishing, internationally, the use of bi-metallic money, and securing fixity of relative value between those metals." Note that the 1878 Act also gave us the first silver certificates (the first gold certificates were established by the Act of March 3, 1862 [12 Stat. 709; Section 5]).

Thus, Congress ultimately decided to take out some of the more-valuable silver in 1853, to again take out some of the weight of the metal which had risen in value, to bring the two monetary metals back into their true market relation.

But, the idea of always removing some of the metal which had recently risen in value wouldn't exactly be conducive to long-term interests of monetary stability.

Keeping the monetary unit (the dollar) stable within a bi-metallic monetary standard was proving to be difficult, at least when the primary monetary metal (silver) had been the one that had risen in value. And, the longer one waited to act, typically the bigger the needed change, unless or until market conditions reversed.

By 1853, when the primary metal rose in value, it became apparent that either the monetary unit (the dollar) would take a direct hit, or the primary metal (silver) would take a direct hit.

In 1853, Congress—intentionally or unintentionally—chose to maintain the unit, sacrificing the metal. Silver lost its luster as a monetary metal in 1853, just as it was coming back into its own, after its market rate had risen in value.

A fuller explanation is in order.

In 1792, the dollar of 371.25 grains of pure silver was instituted as the monetary "unit" as our Standard of Value—the unit for the measurement of value.

Just as the "inch," "foot" and "mile" were instituted as measures of distance; just as a "second," "minute" and "year" made measures of time; just as an "ounce," "pound" and "ton" were made units of weight or mass; and just as a "cup," "pint" and "gallon" were made measures of volume; the dollar and its fractions (the dime, cent and mill) were made *measures of value.*

It is proper that standards remain fixed, so that in the measure of all like things, measures remain constant. Choosing to arbitrarily change the fixed ratios between like-measures necessary destroys the standards and/or the unit.

Imagine removing volume from a pint, but not a quart or gallon—the relationships between the varying units would be destroyed, ending the standard's usefulness that had been conveniently divided into sized units.

In 1853, silver as a primary monetary metal was greatly diminished when Congress committed the original sin, monetarily speaking—making coins of a single metal no longer proportional in weight as their value would otherwise indicate.

Because in the end, Congress decided to leave alone the silver dollar coin (since it was 'the' primary unit in the standard of value [even as the new *gold* dollar—instituted in 1849—suddenly had effective claim to the monetary unit]), but remove some seven percent of silver from the fractional silver coins, while leaving them at their historic valuations (of fifty cents, twenty-five cents, ten cents, and the half-dime at five cents).

Now, *if* the (silver) dollar had also been lightened by an equivalent rate—taking proportional amounts *from all silver coins*—then silver (and gold) would have both been saved, although the dollar unit would have then taken the hit (no longer being 371.25 grains of pure silver [but approximately 345 grains]).

The bi-metallic monetary standard was proving over the long duration to be incompatible with a stable monetary unit, which showed the wisdom of Secretary of Finance (under the Articles of Confederation) Robert Morris, who argued for a single-metal money in 1782:

> "Arguments are unnecessary to shew [sic] that the Scale by which every thing is to be measured ought to be as fixed as the Nature of Things will permit of. Since therefore a Money Standard affixed to both the precious Metals will not give this certain Scale *it is better to make use of one only*."[8]

Morris preferred silver, because:

> "Gold is more valuable than silver…but it is from that very circumstance the more exposed to fraudulent practices."[9]

But Secretary of the Treasury (under the Constitution) Alexander Hamilton wrote years later in favor of using both monetary metals, saying it was best:

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8. https://founders.archives.gov/documents/Jefferson/01-07-02-0151-0002. Italics added.
9. Ibid.

> "not to attach the unit exclusively to either of the metals; because this cannot be done effectually, without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise…To annul the use of either of the metals, as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation."[10]

While Hamilton admitted the problems inherent in a dual-metal money system—that [arbitrage] traders would "select that species which it values least, to pay to the other, where it is valued most" and that "dealers in money will…often find a profitable traffic in an exchange of the metals between the two countries,"—he went on to theorize that the loss of the quantity of the circulating medium with only one monetary metal:

> "would, *probably*, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals; especially, if care be taken to regulate the proportion between them, with an eye to their average commercial value."[11]

Hamilton admitted that a bi-metallic monetary standard would have some level of controllable "evil" due to "the fluctuations in the relative value of the metals." Well, history proved that the Supreme Court in 1871 and 1884 specifically sought to exploit that minor evil, to justify an entirely-evil paper currency.

So, the 1871 and 1884 Supreme Court opinions used the minor and occasional evil that was inherent in a bi-metallic monetary system, to support an entirely evil non-metallic monetary system, that they had no direct power to uphold for the whole Union (as three earlier Supreme Court opinions had decided).

The Supreme Court therefore only upheld paper currency as legal tender for the District of Columbia, which is not a "State" that is expressly prohibited from coining money, emitting bills of credit, or making things a legal tender besides gold and silver coin.[12]

10. Alexander Hamilton's January 28, 1791 report No. 24, on the establishment of a mint, https://archive.org/details/reportsofsecretaunit/page/138.

11. *Ibid.*, Italics added·

The stance never effectively tried by Congress, was having coins of only one metal with its related money of account (dollars, dimes [tenths], cents [hundredths] and mills [thousandths]). By the 1792 standard, this would have been silver.

Then, separately, for the secondary monetary metal (gold, by the 1792 standards), be given its monetary rate in the money of account, regulated or changed *as often as proved necessary*, making minor adjustments all along the way, while giving up on the idea of gold eagle coins ever having rounded dollar values, never seeking to fix the legal value of gold monetarily, in any lasting duration, or designating new weights for coins.

In other words, in 1853, Congress could have simply ordered the continued striking of gold eagles, half eagles and quarter eagles, and also the tenth-eagle coin (i.e., the 1849 gold dollar) and the double eagle (also of 1849), at their 1837 weights and purities, but independently gave them new current dollar values, changed as often as necessary, to keep gold coins currently valued.[13]

This alternate scenario would operate exactly like the portion of the 1834 monetary Act where Congress valued the 1792-era gold coins at 94.8 cents per pennyweight of 1792-standard gold (weighed with its alloy.)[14]

Under the 1792 Coinage Act, the rate per ounce of *pure* gold was equivalent to $19.3939/ounce.[15]

12. See Issue 35 of *The Beacon Spotlight* (September, 2022) for legal support of this claim.

13. Note, Congress may not delegate their enumerated power to "regulate the Value" of money over to executive agency bureaucrats, because this power is vested by the Constitution for the Union only with Congress.

But, that wouldn't prevent Congress from charging the Department of the Treasury, for example, to do all the ground work and make all the necessary calculations, to come up with recommendations for Congress, who would make the final call.

14. In 1792, gold was struck in 11 parts fine gold and one part alloy (for 11/12^{ths} gold and 1/12th alloy), which is 0.9166 pure (which is 22-carat gold [carats refer to 1/24th-parts, so 14-carat gold is 14/24^{ths} fine and 24-carat gold is pure gold]).

The 1792 rate per ounce of standard gold was $17.77/ ounce of *standard* gold (gold mixed with alloy).[16]

The new 1834 rate for old 1792-era gold was explicitly specified within the 1834 Act, as 94.8 cents per pennyweight ($0.948/pennyweight) of *standard* gold (in 0.9166-fineness). This is mathematically equivalent to $18.96 per ounce of 1792-*standard* gold, or $20.68 per ounce of *pure* gold.[17]

The 1834 rate for new 1834-era gold struck at 232 grains of pure gold per $10 weighing 258 grains total weight (0.899225 purity), was $20.68/ounce of pure gold.[18, 19]

15.

Narrative Proof:

The 1792 gold eagle was monetarily valued at $10 and it contained 247.5 grains of pure gold, in a coin that weighed a total of 270 grains, with alloy.

247.5 grains pure gold X 1 ounce/480 grains equals 0.515625 ounces of pure gold per full-weight $10 eagle coin. Dividing the $10 value by 0.515625 ounces of pure gold equates with $19.3939/ounce of pure gold.

Simplified Proof:

247.5 fine gold/480 = 0.515625 ounces of pure gold per $10 eagle

$10.00/0.515625 ounces of pure gold = $19.3939/ounce of pure gold.

16. Proof:

270 grains standard gold/480 grains per ounce = 0.5625 ounces standard gold.

$10/0.5625 ounces of standard gold (total weight of coin) = $17.77/ounce of 1792-standard gold (i.e., gold at 0.9166-fineness).

17. Proof:

$0.948/pennyweight X 20 pennyweights/ounce = $18.96/ounce of standard gold (at 0.9166 fineness)

And

$18.96/0.9166 = $20.68/ounce of pure gold.

18. Proof:

232/480 = 0.4833 ounces of pure gold per 1834 eagle

$10/0.4833 ounces = $20.68/ounce of pure gold ($1.034/pennyweight of pure gold; or $0.043/grain of pure gold]).

The 1834 rate per ounce of standard gold was $18.60/ounce of gold coin, with its alloy.[20]

Finally, in 1837, Congress set the longest-running standard of American gold, in the ten-dollar gold eagle, at 232.2 grains of pure gold, in a coin weighing with alloy a total of 258 grains, which is 0.900 fineness, with fractional coins, at fractional weights. The value of pure gold was set in 1837 at its longest-running historic rate of $20.67 per ounce of pure gold.[21]

The 1837 rate per ounce of standard gold was $18.60/ounce of gold coin, with its alloy.[22]

The mathematical calculations provided in footnotes 15-23 prove the calculations herein stated, showing legal valuations of gold coin, under differing Coinage

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19. Note that both the 1792-era gold coins AND of the 1834-era gold coins, were both valued at $20.68/ounce of *pure* gold, in 1834.

That equal value of pure gold in coins struck in differing standards of purity (and at different weights) is fully appropriate, as the monetary value of any gold coin was always determined strictly according to its pure-gold weight (so the price of pure gold in coins struck in any purity and weight must also necessarily be the same).

After all, coins of the same metal but differing purities and weights had differing monetary values only due to their differing weights of pure metal.

In other words, their primary differences dealt with differing amounts of alloy, which alloy adds no value to monetary coin (not even the silver component of the silver/copper alloy, added to the gold coins).

The 1792-era gold coins and 1834-era gold coins only had differing rates based upon their respective standards of purity, at total standard gold weight.

20. Proof:

258 grains standard gold/480 grains per ounce = 0.5375 ounces standard gold.

$10/0.5375 ounces of standard gold (total weight of coin) = $18.60/ounce of 1834-standard gold (i.e., gold at 0.899225-fineness).

21. Proof:

232.2 grains pure gold per eagle /480 grains per ounce = 0.48375 ounces of pure gold per eagle

$10/0.48375 = $20.67/ounce of pure gold.

Acts. By these calculations, one may see Congress used objective and proportional measures to determine legal monetary value. This is precisely why paper currency cannot be a legal tender in these United States of America, and also explain why copper wasn't even originally a tender (due to a yet-unadvanced art and science of striking copper coin, of determinable purity).

Although the purchasing power of coin would of course vary over time due to changes in supply, demand and market preferences, the objective values of coins of the same metal result from differing amounts of pure gold or pure silver. Thus, even if the listed calculations herein provided contained a mathematical error, the point is that the reader could prove the error and thus determine legal value by himself or herself.

If Congress had chosen a single-metal money, our monetary history would have been stable. In this case, the Supreme Court wouldn't have been able to point to the inherent theoretical injustice of the bi-metallic monetary system.

As it was, the Supreme Court justified their no-metal monetary system, by pointing to the inherent minor evils of a bi-metallic monetary system.

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22. Proof:

258 pure gold per eagle /480 grains per ounce = 0.5375 ounces of pure gold per eagle

$10/0.5375 ounces of standard gold (total weight of coin) = $18.60/ounce of 1834-standard gold (i.e., gold at 0.900-fineness).

Note that the 1837 rate for 1837-standard gold was the same price per ounce for standard gold of the 1834 standard of the 1834 new gold coins, even as the 1837 weight had 0.2 grains more gold per eagle, which changed the purity standard of 1834 of 0.899225 to 0.900 in 1837.

This was within the allowed tolerances set for gold under the 1834 Act (the 1837 Act had lower upper weight and tighter purity tolerances and an upper lower weight than allowed in 1834, while bumping up the ideal target ever so slightly (see Monetary Laws of the United States, Volume I, Page 151, Matt Erickson, 2012 at www.PatriotCorps.org for full proof of this statement). Since the change was made within the allowable tolerances of 1834 gold (as the purity and weight of gold coins became stricter than ever before), no violation of any monetary principles here occurred.

The greatest difficulty in adopting this single-metal monetary system would have meant mathematical calculation anytime coins of the secondary monetary metal were used, like the full-weight 1792-era coins being valued at 94.8 cents/pennyweight in 1834. But this alternative would have best maintained honest money as our Standard of Value, in the measure of all things of value.

If Congress in 1853 wished to uphold a bi-metallic monetary standard, then Congress erred in their approach. If they sought to move towards a single-metal (gold-) standard, then their 1853 actions took the first steps, as silver was effectively sabotaged, just as it was again coming into its own.

In 1853, Congress effectively chose a single monetary metal—gold—over silver, whether intentional or not. Silver took even greater hits in the 1860s as the Comstock Lode in Nevada brought large increases in available silver, causing silver prices to fall precipitously.

In 1873 the venerable silver dollar stopped being coined altogether, although it was resurrected in 1878. In 1900, the United States officially went on the full gold coin standard, as the gold dollar of 25.8 grains of gold nine-tenths was officially made the Standard Unit of Value (23.22 grains of pure gold).[23]

As Article I, Section 10, Clause 1 of the U.S. Constitution readily acknowledges—with its words "No State shall…make any Thing but gold and silver Coin a Tender *in Payment of Debts*"—legal tender status really only comes into play once credit is extended. "Legal tender" determines the forms of money that may legally pay down or off debts (absent express mention of the form of money required for repayment in a contract).

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23. Section 1 of the March 14, 1900 Act (31 Stat. 45) declared:

"That the dollar consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, as established by section thirty-five hundred and eleven of the Revised Statutes of the United States, shall be the standard unit of value."

The 1900 standard continued the purity standard original implemented in 1837 ($10 eagle of 232.2 grains pure gold, in a coin weighing, with alloy, 258 grains [of .900-fine gold]).

All simple purchases/sales where payment is made and concluded at the time of purchase, between a willing buyer and willing seller, various forms of payment—including barter—are negotiated and paid immediately, so legal tender doesn't enter into the simplified equation.

Thorough contracts name the form of money authorized for repayment. And, after *The Legal Tender Cases* rulings of 1871 and 1884, gold clauses became very, very popular.[24]

Of course, this freedom of private contract greatly restricted public tyrants from becoming all that they could be.

Thus, witness the 1933 Presidential war on gold (see Issue 27 of *The Beacon Spotlight* [January, 2022).

80 and 90 years after enactment of the Coinage Act of April 2, 1792, the justices of the U.S. Supreme Court immorally brought up the inherent injustices of our bi-metallic monetary standard, to support an insupportable nonmetallic monetary system.

Of course, they could only uphold paper currency as a legal tender only under the wording "in all Cases whatsoever" found in Article I, Section 8, Clause 17, of the U.S. Constitution, for the District of Columbia.

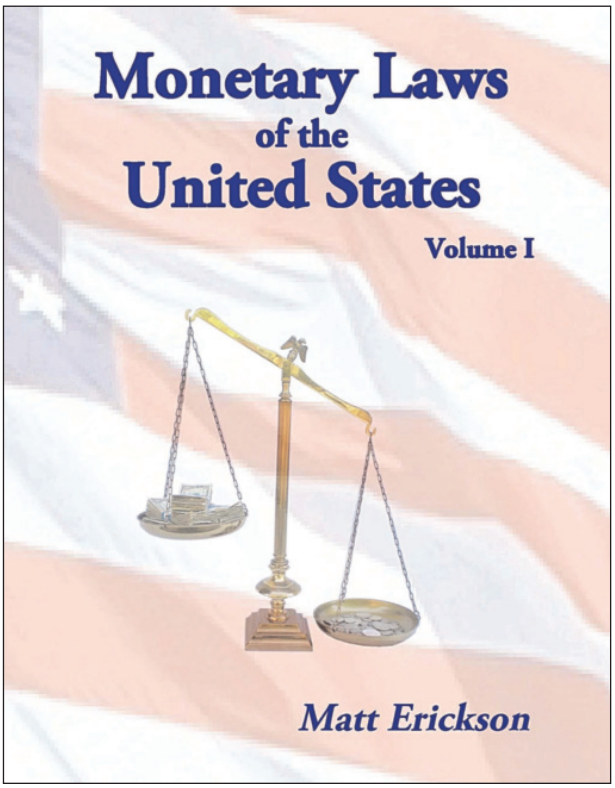
It was certainly not in error that Courts should examine the bi-metallic monetary standard and point out its inherent inconsistencies, so such examination could have helped correct monetary imbalance.

However, for the Courts to point out the inconsistency of using two different metals (gold and silver) in a single monetary standard (dollars) only to support extending legal tender status to paper currency, which can in no sense form a standard (except on exclusive legislation properties) is without form, even as it is not without precedent, as scandalous paper tyrants seek to extend their false rule in order to feather their own nests.

For further discussion on money, such as the Federal Reserve System and also the corresponding congressional war on gold in 1933 and 1934, please see *Monetary Laws of the United States.*

Volume I contains the narrative discussion while Volume II contains the texts of America's monetary laws. (2012— www.PatriotCorps.org).

This concludes *The Beacon Spotlight's* look at money.



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24. Note that *The Bland-Allison Act* of February 28, 1878 (20 Stat. 25, Section 1) specifically provided that (italics added):

> "silver dollars of the weight of four hundred and twelve and a half grains Troy of standard silver, as provided in the act of January eighteenth, eighteen hundred thirty-seven…shall be a legal tender, at their nominal value, for all debts and dues public and private, *except where otherwise expressly stipulated in the contract."*

This passage explicitly acknowledged the use of gold clauses which became very popular after *The Legal Tender Cases* rulings of 1871 and 1884. This statement acknowledged that individual contracts overrode the stated legal tender nature of silver dollars, anytime executed contracts required (re-) payment in gold.

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by Matt Erickson
June 8, 2023