The Precedent for the Ron Paul Dollar

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On Wednesday, November 14, 2007, federal agents raided the Indianapolis headquarters of a company called NORFED, the National Organization for the Repeal of the Federal Reserve Act and Internal Revenue Code, and seized its holdings of gold, silver, and copper, much of it in the form of coins bearing the likeness of US Congressman Dr. Ron Paul of Texas, a candidate for the Republican nomination for President of the United States.

The search warrant for this raid alleges fraud and money laundering, and a supporting affidavit refers to provisions of the US Code that prohibit the emission of any coins intended to circulate as money, and the emission of anything in the likeness of the currency of the United States.

The details of the case are complicated, but there are two issues that I can address without going into all the claims and counterclaims. How is it that the US government has the power to prohibit people from using alternative forms of money (i.e., the first provision), and how is it that the coins of NORFED resemble those of the United States (the second)?

From 1934 to 1975, it was forbidden for any American to own gold bullion. Prior to 1934, it was thought that the US Congress had no power to make anything illegal. Hence, the prohibitionists needed a constitutional amendment to take away our alcohol. But, in 1934, the US Supreme Court decided, in a 5-4 decision, that the Congress could indeed make gold illegal.

What's more, in this and in subsequent decisions, the Court decided that Congress could prohibit us from using gold or silver coins such as might be issued by foreign governments or by private mints, or paper notes issued by private banks, or even writing financial contracts denominated in gold, or in any foreign currency, or in any form of indexation. Not only could the federal government decide what the "legal tender" of the country is, but also what is the only legal "unit of account" and "medium of exchange." These powers are not to be found in the Constitution, but are part of what Chief Justice John Marshall, speaking for the Court, said is the "inherent power" of government.

The issue of whether money should be the sole prerogative of government has been controversial for a very long time. Advocates of limited government have always argued that money should be something of value as a commodity independent of its monetary use, although many of them have allowed a role for government in attesting to the weight and fineness of coins and the soundness of banks. Advocates of big government have always argued, contrariwise, for fiat money.

In ancient Greece, we can find these positions in the writings of Plato and Aristotle. Plato, who advocated the dictatorship of the "philosopher-king," said, in *The Laws*, that the money of a state should consist of things "of no worth amongst the rest of mankind." In other words, the state should create fiat money. Furthermore, so as to force the people of the state to use only its fiat money, "no private person [should] be permitted to possess gold or silver."

At the time, the moneys issued by the tyrants of Greece usually consisted of thin strips of copper, or coins of base metals. In the case of the Greek colony of Syracuse, during the rule of the tyrant Dionysus, who may have been advised by Plato, money consisted of tin coins. Not accepting these coins at their face value was punishable by death. In spite of this terrorist threat, the states that forced their debased currencies onto the people suffered inflation and its associated evils. Thus, the Greek playwright Aristophanes, in "The Frogs," said "In our Republic, bad citizens are preferred to good, just as bad money circulates while good money disappears."

Aristotle, on the other hand, in *The Politics*, said that money should be "something intrinsically useful and easily applicable to the purposes of life — for example, iron, silver and the like." Aristotle was amazingly prescient about money. He advocated commodity money even though he recognized that it was subject to fluctuation in value relative to other goods. In *The Ethics*, he wrote, "of course, [commodity money] too is liable to depreciation, for its purchasing power is not always the same…" (I should point out, that the fluctuations of value of commodity money are modest when compared to the usual fluctuations, always downward, of fiat money.) So dedicated to the principle of commodity money was the city-state of Athens that it seems that even counterfeits of its coins had to be accepted provided they contained the requisite silver content.

At the time of the founding of the United States, the money controversy was, for many, a very important issue. Several of the colonies had groused under the thumb of the king in the matter of issuing paper money. By reason of the Currency Act of 1764 and otherwise, the colonies were restricted as to how much could be issued. Thus, upon declaring their independence, these colonies — now states — and the Continental Congress proceeded apace to issue paper money and, of course, engendered a hyperinflation. Even after the repudiation of this paper money and the securing of a peace, a number of the states returned to their inflationary ways. Although not well known, it was this second wave of inflation, and not the Revolutionary War inflation, that was among the main motivations to devise "a more perfect union."

Under the resulting US Constitution, the states were prohibited from making anything other than gold or silver a legal tender, and they were furthermore prohibited from issuing bills of credit (i.e., paper money) and from interfering in contracts. The federal government was given the power to coin money and regulate the value thereof. It was also given the power to borrow money.

At the time, nobody thought that the power to coin money was an exclusive grant of power. Indeed, there were three private banks (the banks of North America, New York, and Massachusetts) that were issuing paper money (many others would later also do so), and a wide variety of private merchants issued fractional currency in the forms of copper coins and shinplasters. None of this privately issued money was legal tender, and all of it passed in circulation voluntarily. Furthermore, almost all of the silver and gold coins that circulated in the country were Spanish and other foreign coins. What was controversial, at the founding, was whether the federal government could charter a bank.

Famously, Alexander Hamilton said "yes," as this would be "necessary and proper" to manage the enormous Revolutionary War debt of the United States; Thomas Jefferson said "no," since money could be borrowed directly from lenders or through state-chartered banks. George Washington, on the further advice of James Madison, sided with Hamilton. Later, when the Revolutionary War debt was paid off and the Congress wanted to extend the charter of the federally chartered bank, Madison, as president, said, that since the federal government was no longer in debt, a federally chartered bank was not "necessary and proper." These circumstances made the law seeking to extend the charter of this federally chartered bank unconstitutional; therefore, he vetoed the bill.

In contrast to the thinking of Madison, the Supreme Court, in a subsequent series of rulings, found that the monetary powers of the federal government were bound up in the "inherent power" of government, and in powers exercised by all "civilized governments" not denied to the federal government. The idea that government has "inherent power" is, of course, anathema to libertarians, as is the doctrine that government officials have "implied powers." Whatever power the government has, beyond that to which the people give their consent, is neither inherent nor implied, but is taken by force.

Recounting the rest of the monetary history of the country is unnecessary (not to mention disheartening). Needless to say, during the course of this history, the federal government took more and more monetary powers so that, today, our monetary arrangements would be unrecognizable to any of the Founders. Our coins, in particular, are ugly little pieces of nothing and a constant reminder of our degradation. To quote the prophet Isaiah, "they have turned your silver into base metal."

From 1789 to 1934, one ounce of gold was equal to $20 US dollars. Then, in order to "reflate" the price level, Franklin Delano Roosevelt asked the Congress to devalue the US dollar so that one ounce of gold equaled $35, to which the Congress acceded. And, since 1934, we have suffered continuous inflation, sometimes at a fast pace and sometimes at a slow pace, sometimes hidden by wage and price controls, and the price of an ounce of gold is now around $800.

Fast-forwarding from 1934 several decades, during the 1970s, thanks largely to Jesse Helms, who was at the time a US Senator from North Carolina, and a then-rather-young US Congressman from Texas named Ron Paul, the law banning ownership of gold by Americans was voided. Soon after allowing us to own gold (thank you, master), the Congress allowed us also to index our financial contracts (thank you, again, master). Subsequently, Sunshine Mining issued bonds indexed to silver, and other private borrowers followed up with bonds linked to other commodities and to the Consumer Price Index. There were, however, a number of nagging questions concerning the legality of these price-linked bonds. During the 1990s, the US Treasury itself issued CPI-indexed bonds, and the legality of indexed bonds was no longer in doubt.

Soon after the lifting of the bans on gold and indexation, banks were allowed to offer customers accounts denominated in gold; which the Republic Bank of New York did. And, during the 1990s, banks were further authorized to offer accounts in foreign currencies and, today, a growing number of them do (but this is because of globalization, not because of concerns about inflation).

Thus, it should be clear that it is legal for individuals, banks, and others, to own Ron Paul coins, to exchange them with each other as they choose and for whatever consideration they agree, to do this either by physically transferring possession or by paper or electronic transfer of coins held in deposit accounts, and to arrange for deposit of coins in accounts. What is illegal, by reason of Section 486 of Chapter 25 of Part I of Title 18 of the US Code, is making, uttering, or passing any metal coin, even of original design, *intending for it to circulate as current money* (emphasis added). In addition, in the action of the feds against the private minter of Ron Paul coins, there is the matter of issuing coins in the likeness of those issued by the US Treasury, and there may also be matters of fraud as happens in scams.

As to the matter of whether the coins issued by NORFED are in the likeness of those issued by the US Treasury, in the affidavit that supported the search warrant by which the FBI raided NORFED's headquarters, it is said that its coins resemble those of the United States. For example, a dime is shown, with the likeness of Franklin Delano Roosevelt on one side and three fasces on the other. In terms of symbols, the pre–Ron Paul NORFED coins bear images of Columbia, the goddess of Liberty, and thus resemble historical coinage of the United States, and the commemorative gold coins issued by the US Treasury under a law authored by Congressman Ron Paul. These commemorative gold coins are imbued with legal tender status by the US Congress, at values that make uneconomic their use as money (e.g., the one ounce coin has a legal tender value of $20), are sold by the Treasury at much higher prices, and thus are not really part of the current coinage of the United States.

In terms of words, the coinage of the United States bears the words "Liberty," "United States of America," "In God we trust," and "E pluribus unum." The pre–Ron Paul coins of NORFED bear the words "Liberty, "USA," and "Trust in God."

Although not discussed on the affidavit, we know that the coinage of the United States consists of so many pieces of garbage, being made out of zinc or lead or whatever base metal the government finds laying around at the recycling center, and polished so as to look like silver. The NORFED coin looks like a United States coin partly because the NORFED coin is made out of silver and the United States coin is polished so as to look like silver.