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Gold and Freedom, Part 4

by Jacob G. Hornberger

On April 5, 1933 — about a month after taking office — President Franklin Roosevelt issued an executive order commanding every American to turn in his gold to the federal government. The order was soon ratified by Congress, which made it a felony offense for Americans to own gold. The Congress also nullified clauses in both private and public contracts that required payment to be made in gold coin.

Roosevelt's actions rank among the most horrific abuses of government power in history. For 150 years, the American people had been accustomed to using gold coins as money. Their gold was their property. They were the owners of it. It belonged to them as much as their homes, their automobiles, and their personal effects. It did not belong to Franklin Roosevelt, nor to the members of Congress, nor to any other public official. It was privately owned property.

Nonetheless, the Roosevelt administration simply declared that everyone's gold suddenly belonged to the federal government. Everyone, including individuals and banks, was required to surrender his privately owned gold to the federal government. Anyone caught failing to do so was subject to being indicted by a federal grand jury and faced a possible jail sentence of 10 years and a fine of \$10,000.

Imagine: In 1787 the Framers used the Constitution to establish a system whereby people were going to use gold and silver coins, rather than paper, as money. The reason they did that was to enable people to protect themselves from what governments throughout history had done — plunder and loot people through inflation — e.g., by printing ever-increasing amounts of paper money to finance ever-increasing governmental expenditures. For the next 150 years, Americans used such coins in their everyday transactions.

Then, one day federal officials suddenly made it a felony for Americans to do what they had been legally and constitutionally doing for 150 years.

In fact, the Roosevelt administration's confiscation of privately owned gold was no different from the nationalization of privately owned property that had taken place at the hands of the communist regime in the Soviet Union. And Roosevelt's criminalization of gold ownership

was no different, in principle, from the types of economic crimes that the Soviet communists were creating and enforcing.

What was Roosevelt's rationale for this revolutionary action? He claimed that since the Great Depression was a national "emergency," the federal government had the authority to exercise emergency powers, including the power to confiscate gold, to make gold ownership a felony, and to nullify gold clauses in contracts.

One big problem, however, was that the Constitution didn't provide for the exercise of emergency powers. In fact, the Framers understood that emergencies are the time that liberties are most at risk. Therefore, it was during emergencies that constitutional restraints were most important.

Nazi admiration

Constitutional restraints, however, didn't present a problem for Roosevelt. After all, this was the man who would later come up with an infamous Court-packing scheme when the Supreme Court was declaring many of his socialistic and fascistic New Deal programs unconstitutional. He had no intention of letting constitutional restraints stand in the way of his aims and objectives.

Thus, it's not surprising that one of Roosevelt's greatest admirers was none other than Adolf Hitler, who was adopting many of the same types of measures to deal with the economic emergency in Germany that Roosevelt was employing in the United States. Here's what Hitler wrote to U.S. Ambassador Thomas Dodd on March 14, 1934, about a year after the Roosevelt administration had nationalized gold and nullified gold contracts:

The Reich chancellor requests Mr. Dodd to present his greetings to President Roosevelt. He congratulates the president upon his heroic effort in the interest of the American people. The president's successful struggle against economic distress is being followed by the entire German people with interest and admiration. The Reich chancellor is in accord with the president that the virtues of sense of duty, readiness for sacrifice, and discipline must be the supreme rule of the whole nation. This moral demand, which the president is addressing to every single citizen, is only the quintessence of German philosophy of the state, expressed in the motto "The public weal before the private gain."

In his excellent book, *Three New Deals: Reflections on Roosevelt's America, Mussolini's Italy, and Hitler's Germany, 1933-1939*, Wolfgang Schivelbusch points out,

On May 11, 1933 [one month after Roosevelt's gold decrees], the main Nazi newspaper, the *Volkischer Beobachter*, offered its commentary in an article with the headline "Roosevelt's Dictatorial Recovery Measures." The author wrote, "What has transpired in the United States since President Roosevelt's inauguration is a clear signal of the start of a new era in the United States as well." The tone on January 17, 1934, was much the same, "We, too, as German National Socialists are looking toward America.... Roosevelt is carrying out experiments and they are bold. We, too, fear only the possibility that they might fail."... Just as National Socialism superseded the decadent "bureaucratic age" of the Weimar Republic, the *Volkischer Beobachter* opined, so the New Deal had replaced "the uninhibited frenzy of market speculation of the American 1920s." The paper stressed "Roosevelt's adoption of National Socialist strains of thought in his economic and social policies, praising the president's style of leadership as being comparable to Hitler's own dictatorial Fuhrerprinzip."

Plundering and looting

Why did Roosevelt nationalize gold? Why were gold clauses nullified?

The answer is simple: to enable the federal government to do what governments throughout history had done — plunder and loot people through inflation in order to pay for ever-increasing government programs and projects.

Let's review the process to understand what Roosevelt was doing.

The reason the Framers established gold and silver coins as the money that Americans would use was to protect them from the inflationary ravages of paper money.

The Constitution permitted the federal government to borrow money — e.g., gold and silver coins — and issue notes promising to repay the loans. Such notes customarily contained gold clauses requiring repayment in the same gold-coin standard in effect when the loan was made.

Let's assume that I lend the federal government a gold coin containing 1 ounce of gold. Before the loan is repaid, the government lowers the quantity of gold in coins of that same denomination to ½ ounce. When the loan becomes due, the government tries to repay me in the devalued coin. But the gold clause protects me. It requires the government to repay me in the standard that was in effect when the loan was made — or its equivalent. Because of the gold clause, the government would have to pay me two of the new gold coins containing ½ ounce of gold each.

What constrains the government from issuing too many short-term paper notes — or bills? The fact that people might start demanding gold in payment of such notes! And that's exactly what was happening by the time Roosevelt assumed office. Americans were doing what people

throughout history had done — they were putting their savings into gold coins rather than in the ever-increasing numbers of bills and notes that the federal government was issuing. That’s what Roosevelt called the “hoarding” problem.

Moreover, people continued doing what Americans had done since the start of the Republic — relying on gold clauses in contracts, both government and private, to ensure that their loans would not be repaid in debased, depreciated currency.

Yet, within just a few weeks of taking office, Roosevelt extinguished 150 years of sound money. From the day his executive orders were issued, Americans could no longer use the media of exchange on which their country had been founded and which Americans had used ever since. In fact, while Roosevelt billed his actions as “emergency” measures, most people knew that that was a lie. Everyone knew that the criminalization of gold ownership and the nullification of gold clauses would continue long after the Great Depression ended.

Also remarkable is the fact that this revolutionary and permanent transformation of America’s monetary system occurred without even the semblance of a constitutional amendment.

Beyond Lincoln

Why didn’t Roosevelt simply do what Lincoln had done during the Civil War? Recall that Lincoln had enacted a legal-tender law that required people to accept paper money at face value, even though it had depreciated against gold in the marketplace. While Lincoln’s actions violated fundamental moral principles, not to mention constitutional principles, at least Americans still had the freedom to continue owning and using gold, and the gold standard was eventually restored after the end of the war.

Why did Roosevelt go so much further than Lincoln? Why did he actually seize people’s gold? Why did he convert millions of peaceful and law-abiding gold-owning Americans into potential felons? Why were gold clauses nullified?

The reason for Roosevelt’s actions was simple: He knew that the federal government was moving in a new direction — in the direction of a socialistic welfare state and an interventionist economy, a direction that he knew would entail massive federal spending in the decades ahead. Obviously, that type of revolutionary change would be impossible under a gold standard. The only thing that would enable the welfare-and-interventionist state to operate, decade after decade, would be the ability to print unlimited amounts of paper money.

Thus, Roosevelt and the statists surrounding him knew that they needed to do much more than simply enact a legal-tender law, as Lincoln had done. They knew they had to smash the concept of gold as money from the consciousness of the American people. It was absolutely necessary, they felt, that people totally forget that Americans once used gold coins as their money as normally and naturally as people today use dollar bills. It would, of course, take a few generations but gradually people would forget the past and just accept the new order of things.

Consequences of debasement

And so it has been. Decade after decade, inflationary debasement was accompanied by periods of panicky constraints on money growth, bringing about the traditional boom-bust cycle. Over time, the primary engine of the monetary debasement became the Federal Reserve, one of the most powerful government agencies in history, an agency whose supposed mission, ironically, had been to stabilize America's monetary system.

In fact, the most terrible irony is that it was the Federal Reserve itself whose policies had brought about the 1929 stock-market crash and the Great Depression, notwithstanding Roosevelt's pronouncement that it was all the fault of free enterprise, speculation, and greed. After decades during which public schools and state-supported colleges and universities had deceived students as to the cause of Great Depression, one of most remarkable admissions in U.S. history was made by Bernard Bernanke, the Federal Reserve official who would go on to become its chairman. At a dinner in 2002 in honor of Milton Friedman, who, along with Ludwig von Mises, Friedrich Hayek, and the Austrian school, had long pointed out that the Federal Reserve was the culprit behind the Great Depression, Bernanke stated,

Let me end my talk by abusing slightly my status as an official representative of the Federal Reserve System. I would like to say to Milton and Anna [Schwartz]: Regarding the Great Depression. You're right: we did it. We're very sorry. But thanks to you, we won't do it again.

Americans who are 55 or older remember that as children they used dimes, quarters, and half-dollars made of silver, and nickels made of nickel. As such coins gradually disappeared from circulation, Americans just scratched it off to "progress" or "the natural order of things." The last thing Americans wanted to do was accuse their government of some sort of monetary wrongdoing. After all, as the federal government began playing an ever-increasing paternalistic role in people's lives with its welfare state and interventionist system, Americans placed ever-increasing faith in their government

But the reason that those coins disappeared from circulation is the same reason that gold coins were starting to disappear from circulation when Roosevelt took office. The federal government was printing such vast quantities of money, decade after decade, to finance its welfare-state operations that the value of the silver in dimes, quarters, and half-dollars began to exceed the face value of the coins. In other words, it was worth more to people to sell the silver to be melted down than it was to use the silver coins to make purchases at the face value of the coins.

Over the years, the federal government prosecuted Americans caught owning gold, but none of those cases ever reached the Supreme Court. The cases that did reach the Supreme Court were ones that challenged Roosevelt's nullification of the gold clauses. Those four cases have become known as the *Gold Clause Cases*.

In 5-4 rulings, the Court ruled in favor of Roosevelt's actions and against the victims of his policies. The damages suffered by those victims were not small. While people were being paid for the gold they were sending to the federal government, they were being paid in depreciated paper money, for Roosevelt had increased the price of gold, and so had devalued the dollar by some 40 percent. The financial losses suffered by private lenders who had relied on gold clauses to protect them and by private holders of government-issued gold certificates were incalculable.

Not everyone rolled over. One of the finest expressions of opposition to Roosevelt's monetary horror, from a legal standpoint, appears in the dissenting opinion in the *Gold Clause Cases*. Writing for the group of justices who would become known in judicial history as the Four Horsemen, Justice James Clark McReynolds wrote,

Just men regard repudiation and spoliation of citizens by their sovereign with abhorrence; but we are asked to affirm that the Constitution has granted power to accomplish both. No definite delegation of such a power exists, and we cannot believe the far-seeing framers, who labored with hope of establishing justice and securing the blessings of liberty, intended that the expected government should have authority to annihilate its own obligations and destroy the very rights which they were endeavoring to protect. Not only is there no permission for such actions, they are inhibited. And no plenitude of words can conform them to our charter....

Under the challenged statutes, it is said the United States have realized profits amounting to \$2,800,000,000.... But this assumes that gain may be generated by legislative fiat. To such counterfeit profits there would be no limit; with each new debasement of the dollar they would expand. Two billions might be ballooned indefinitely to twenty, thirty, or what you will.

Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling.

Restoration of gold ownership

In 1974 — 40 years after Roosevelt confiscated people's gold and made it illegal for Americans to own gold — and three decades after the "emergency" of the Great Depression had ended, Congress made it legal for Americans to once again own gold. By this time, of course, the

notion of gold as money had been wiped from the consciousness of most Americans. After decades of being taught economics in public schools and state-supported colleges, their understanding, at best, was that America once had a paper-money standard that was somehow linked to gold.

Over the past 30 years many Americans have rediscovered the value of owning gold, even if it isn't being used as official money in society. They discovered what people throughout history discovered — that placing their savings in gold, rather than bills and notes, is more likely to protect the value of their savings, especially if the government intends to continue printing the necessary paper money to fund its ever-growing operations.

Today, there is increasing awareness of what the Federal Reserve has done to destroy what was once one of the soundest monetary systems in the world, one based on gold and silver coins. There are even calls, especially among young people, to abolish the Fed and restore sound money to the nation. More and more people are recognizing that a system of sound money is a necessary prerequisite to a free society.

Yet, there is now the specter of another monetary horror, one in which President Obama decides to mimic the actions of the president he so admires, Franklin Roosevelt. As Obama embarks on one of the biggest federal spending sprees in U.S. history, continued monetary debasement has become a certainty. The risk, of course, is that Obama will resort to the same method employed by Roosevelt and the Soviet communists. To replenish the coffers of the federal government in order to fund his ever-growing socialistic, interventionist, and imperial programs, Obama may well decide to re-confiscate people's gold in another massive assault on the freedom, private property, and economic well-being of the American people.

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