

# Should Gold And Silver Be “Illegal” Tender?

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WEB Commentary  
December 1, 2007

Years ago, if you wanted to buy something you paid in coins minted from, or at least backed by, precious metals. United States currency, for example, was backed by gold held by the government – hence the term “gold standard”. Your dollar was backed by a dollars worth of gold which in theory you should have been able to get by simply turning in your dollar.

Since that time however a lot has changed. The dollar is no longer primarily backed by the tangible, but rather the intangible. It is basically backed by itself on the condition of the stability of the United States government, the productivity of the citizens of the United States and the willingness of foreign countries to use it as a guarantee of their own currency.

This, of course, is problematic because of a pesky little thing called the United States Constitution which states, “No State shall ... make any Thing but gold and silver Coin a Tender in Payment of Debts “. So if no State can do this, then how can they allow a currency issued by the federal government to be used by their citizens?

A quick scan of all the amendments made to date shows no repeal of that clause was ever made. Which means that it is still valid and “the law”.

To me, at least, it seems we have a bit of a problem even though to me it doesn't really matter what the dollar is backed by. Although there are many that are indignant at anything other than what they want used as a basis for value being used. My opinion is that as long as whatever backs the dollar is valued, it doesn't matter what that something is.

Everything that could be proposed to back the dollar has periods of highs and lows. I don't care what you come up with. Even the value of gold fluctuates with supplies, new sources being mined, old sources drying up and even plain old demand just as the value of the perceived stability of the American government and its promises to back its own currency do.

So to me it has always been a moot point. Base the value of the dollar on whatever you want. Just make sure that that “whatever you want” is valuable and be careful. As the old story goes, leaves make great currency until you discover a forest. Then you have to worry about inflation.

But I do believe that we should abide by the Constitution. Or at least be willing to change it by amendment if we no longer think that the standard set forth in it is no longer valid or attainable.

So fast forward with me if you will to the modern day. Arrive with me at just this past month when FBI agents raided and seized the precious metals and coins owned, minted and circulated by Liberty Dollar. The company is owned by Bernard von NotHaus and has been minting its own coins for a decade which some, and I emphasize some, companies and individuals have chosen to accept as legal tender for exchange of goods and services. All told, it appears that over the years millions worth of "Liberty Dollars" have been placed into circulation and all are backed by precious metals and a guarantee by Liberty Dollar.

Disclaimer time so bear with me. I supported the concept of the Liberty Dollar until Mr. von NotHaus decided to make his enterprise a political operation instead of simply an exercise in Constitutional adherence. By producing coins with a political messages such as the anti-war "Peace Dollar" he thoroughly ceased ingratiating himself in my mind and became someone that doesn't understand the dangers facing American and individual liberty. And when the "Ron Paul for President" coin became available, well, he became a basically a fund raiser and promoter for that candidate. Personally I believe that he ruined a good idea even if it had yet to really catch on. If I had been him I would have kept the politics out of it.

I think it is only right to also disclose that I have never used any of the products by Liberty Dollar for two reasons. First, because I could not get any local retailers to say they would accept them. Second is that the value of the coin is not backed by its actual value in precious metal. For example, from the Liberty Dollar website, "When the price of silver rises near \$10 per ounce, a new \$20 Warehouse Receipt series will be issued. All new Certificates will be identified with "\$20 Silver Base. The new \$20 denomination certificate will be backed by one ounce of .999 silver". Note that that "one ounce" however is only worth "near \$10". I didn't think it was a good idea to invest something that wasn't worth nearly its weight in gold ... um ... I mean silver if you know what I mean.

I liked the idea, but hey, those are the breaks. Currency doesn't do you any good if no one values it at the value you assign to it.

So, back to the FBI raid on Liberty Dollar. It was because the government claimed that the company's money was too "similar" to "official" U.S. currency even though the "official" U.S. currency isn't based on the Constitutional provision of being gold and silver backed. To which I ask the obligatory question of, "So what?" Is there now some monopoly that the federal government should have over how we conduct our business?

Not according to the Constitution. The Constitution doesn't give the federal government the exclusive right to be the sole source of "money". It only gives the government the power to issue money stating, "The Congress shall have Power ... To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures". Being the strict constructionalist that I am, I have to call it as I see it.

There are also other charges that appear to be headed to court to be sorted out. Issues such "counterfeiting", a bogus charge because Liberty Dollar was not creating copies of the federal currency, and others such as whether or not the endeavor was a sort of ponzi scheme where the coins were sold at more than the value of the gold, silver, etc that backed them.

You see the potential problem here. The money is inflated in value as I previously discussed. But you can't really make the money and pay for the costs of turning the raw metals into coins without charging more than it is worth right? After all, it takes many times the value of an "official" U.S. dollar bill to keep it in circulation than the value of the dollar bill in the first place. So the same problem exists with federal money.

As long as people agree to accept the currency as payment shouldn't we let them? If people are willing to accept the coin and Liberty Dollar makes good on its pledge to redeem the currency for the precious metals that back it as promised when asked, what really is the problem here? Should gold and silver not be legal currency? Should people not be allowed to barter and trade in any form they desire for goods and services barring the infringement of someone's rights in the transaction? Or should the government be allowed to dictate what we can and cannot use as "currency" for private transactions?

And if gold and silver are not to be legal currency, then wouldn't every coin dealer in America be just as guilty as those that created the Liberty Dollar each time they bought or sold a coin? What about the local pawn shop that buys and sells jewelry made of gold and silver? Shouldn't we be able, as free people, to trade something for something else of our own free will?

These are serious questions that need to be answered. Because in a time not too far removed from modern day, we as Americans, used to conduct our business in things other than the paper money and coins of modern day America. We offered gold and silver and even cows and chickens as payment for our debts and to acquire services. Heck, at one point in America, "wampum" was a currency for God's sake! Wampum, for your information, being polished shells plentiful in the ocean to anyone that had the drive to fetch them.

If I offered you a steaming pile of fresh manure for a dozen eggs because you could use the manure to fertilize the corn in your field should the government have the right to tell us, "No, you can't do that"?

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