CLIENT MEMORANDUM

How You Can Survive a Potential Gold Confiscation

by
George R. Cooper, J.D.
and Michael J. Kosares

Centennial Precious Metals, Inc.

Published by
Centennial Precious Metals, Inc.
Denver, Colorado

Client Note:

To understand how a gold confiscation might be possible nearly 70 years after the last one under Franklin Roosevelt occurred in 1933, all one needs to do is attempt to postulate how the massive federal debt (nearly $6 trillion and growing) and the outstanding international dollar float (resulting from the U.S. trade and budget deficits) are going to be reconciled. At present, the U.S. dollar enjoys special status around the world as the primary reserve currency. This encourages -- some would say "forces" -- central banks and individual investors globally to hold it. Leaving the various circumstances and potential scenarios aside, what would be the outcome if the props were kicked out from underneath this built-in dollar market, for whatever reason, and even a portion of the foreign-held greenbacks were repatriated to the United States, or set loose on world currency markets? Even more importantly, how would the government react to an economic emergency in which individuals, beset by either a devastating domestic inflation or a deflationary nightmare or both, were fleeing the banks and equity markets for gold as a means of preserving their personal capital? Beyond that, what would happen if our foreign creditors decided that the national debt should now be backed by something other than the government's promise to pay and forced the United States to bring its gold reserves into play? Historically, confiscation has all too often been the option taken by governments beset by an economic breakdown. Just as gold is the asset of last resort for the individual portfolio doing service in the most financially threatening times, so it is all too often the asset of last resort for troubled governments as well. As recently as 1998 during the Asian Contagion, both South Korea and Thailand implemented "voluntary" gold call-ins. The temptation presented by its citizens' gold holdings was simply too facile to resist.

This memorandum -- which includes a question and answer overview and comprehensive supporting appendices -- details why we believe pre-1933 gold coins offer the best protection against a potential government gold confiscation. We do not in any way intend this to be a formal legal opinion, but a simple presentation of documents and political/economic history that might help you form your own opinion on the matter. Furthermore, we are not stating categorically that pre-1933 gold coins will survive confiscation. Instead we are stating that we believe, given the weight of legal precedent as reprinted here, this is the best option available for those with concerns about confiscation Ultimately, you will be the one to weigh the potential for a gold confiscation and whether or not pre-1933 gold coins will be part of (or the totality) of your gold holdings. This memorandum provides to our knowledge the most detailed and comprehensive documentation on the subject of gold confiscation in the United States assembled to date. We sincerely hope it it fulfills the purpose for which it is intended -- to help you make an informed decision on the type of gold best suited to meet your portfolio goals.

Please call with your questions and for pricing information:

Centennial Precious Metals, Inc.
3033 E. First Avenue
Suite #403
Denver, Colorado 80206

1-800-869-5115
303-393-0322

On the web at www.usagold.com

e mail: cpm@usagold.com

We would like to thank Tom Hixson, the Denver Public Library, the American Numismatic Association Library, and the Committee for Monetary Research and Education (Elizabeth Currier, Executive Director) for their kind assistance in gathering the research for this memorandum.

Gold Confiscation Questions and Answers

"I am afraid that one day the government will indeed call gold in. Gold bullion will be subject to confiscation. This is one big advantage to numismatic gold, such as the double eagles. It is an idiosyncrasy of governments that although they may prohibit ownership of gold in any form, they are reluctant to touch collections of numismatic gold coins. Today, there are some 49 countries which forbid ownership of gold by their citizens, but do allow holding gold coins for numismatic purposes. Even Soviet Union and Eastern European countries legally tolerate[d] the acquisition of numismatic gold coins. So these are the only gold holdings that could be kept in your safe deposit box without any fear of confiscation."

----- Dr. Franz Pick, *The Triumph of Gold* at 70.

Q: Who was Dr. Franz Pick and why quote him?

A: Dr. Pick was a famous Austrian economist and currency expert who died in the 1980s. His work is important to us with respect to gold confiscation because he survived both Nazi and Communist dictatorships as a citizen in Eastern Europe--neither of these governments, as you probably already know, had a favorable disposition towards private gold ownership. "The Triumph of Gold" was his most notable work and remains must reading for any serious student of gold and economic history. As you can see from the quote above, based on his life experience and reading of modern economic history, he also distrusted politicians and thought gold confiscation an option all too readily embraced by governments, including the modern variety.

Q. Is Dr. Pick correct about the likelihood that collectors' gold coins would be exempted from a confiscation?

A. We believe he is. Historically, as you will learn by a close examination of this memorandum, collector gold coins have been treated differently under U.S. law than bullion and that treatment generally has been favorable. Getting back to the masthead quote, one of the central issues covered in this memorandum, if not *the* central issue is: "What comprises numismatic or collector gold as defined by current U.S. law and regulations?" And secondly: "How can one effectively go about protecting his or her gold holdings from confiscation now?" These questions are answered here in detail, but the short answer is that pre-1933 gold coins afford the investor an additional layer of protection, not available in bullion coin ownership. Since confiscations tend to come at a time when investors most need their gold, some advanced planning is recommended which takes advantage of the special treatment governments afford "collector gold."

Q. Doesn't "collector gold" translate to a coin that sells for prices far above -- often multiples of -- the gold content?

A. Surprisingly not. Few people know that there is a whole genre of coinage within this large pre-1933 grouping which can be obtained at reasonable premiums over the gold content. Most of these were minted in Europe prior to 1933. Pre-1933 U.S. gold coins are available but the premium is much higher than it is for the European coins. The laws and regulations makes no distinction between the European and U.S. coins with respect to confiscation exemptions, so we tend to gravitate toward the more cost-effective European gold coins. At Centennial Precious Metals, we place tens of thousands of these coins annually with cost-conscious gold investors.

Q: Why do governments have such an intense dislike for gold?

A: "The modern mind," quipped philosopher Joseph Schumpeter, "dislikes gold because it blurts out unpleasant truths." Those unpleasant truths usually have to do with a debauched currency or an economy about to go into the deflationary tank. Essentially by buying gold, the citizen is voting against government economic policy with his or her checkbook. Most of the confiscations that have occurred in history were implemented to stop investors from fleeing to gold in times of economic hardship.

Q. Any examples of this political antipathy for gold?

We can offer two clear-cut examples worth pondering:

When Franklin Roosevelt confiscated American citizens' gold in 1933 (*see* Appendix II), he wrote a letter to Congress explaining his actions and asking for its endorsement (which it granted). In that letter entitled, "Request for Legislation to Organize a Sound and Adequate Currency System (January 15, 1934), Roosevelt said:

> "[T]he free circulation of gold coins is unnecessary, leads to hoarding, and tends to a possible weakening of national financial structures in times of emergency. The practice of transferring gold from one individual to another. . . is not only unnecessary, but it is in every way undesirable. . . Therefore it is a prudent step to vest in the Government of a Nation the title to and possession of all monetary gold within its boundaries and to keep that gold in the form of bullion rather than in coin." *3 Franklin D. Roosevelt Papers* at 41.

Here's a similar statement (though a bit more demagogic) from a German politician named Adolf Hitler:

> "Gold is not necessary. I have no interest in gold. We'll build a solid state, without an ounce of gold behind it. Anyone who sells above the set prices, let him be marched off to a concentration camp. That's the bastion of money." *Macmillan Book of Quotations* at 93.

The similarities in these statements is striking to say the least. If not in concert on anything else, Roosevelt and Hitler felt the same way about gold and for the same reasons. Both countries were experiencing severe economic hardship and capital was in flight -- primarily to gold.

> Note: In Appendix I, Dr. Walker F. Todd, formerly an economist with the Federal Reserve and now a private consultant, provides some very good behind-the-scenes insight with respect to Franklin Delano Roosevelt's thinking just prior to closing the banks and calling in Americans' gold in that fateful year of 1933. It is a lesson how far politicians are willing to go when faced with an economic catastrophe, and how much normally rational citizens are willing to let them get away with to bring about a recovery. Roosevelt, like Hitler in Germany, justified his actions as forced by a national economic emergency. "But closing the banks," said Herbert Hoover in his memoirs, "would be a sign the country was in the ditch. It was the American equivalent of the burning of the Reichstag to create 'an emergency.'" *3 Memoirs of Herbert Hoover* at 214.

Q: Why did the U.S. government call in the gold in 1933? What is the truth behind the stories of our parents and grandparents who said that gold was confiscated?

A: In 1933, the economic problems became severe enough to threaten the viability of the entire banking system. At the depths of the Depression, over 10,000 banks had closed and people were turning in their paper money for gold coins, and then putting those coins in safe deposit boxes and in the drawer at home. Big investors, perhaps reading the handwriting on the wall, were exporting bulk amounts of the yellow metal to Europe in bullion form. Dr. Todd quotes a Treasury report in early 1933 which stated "Gold held in private hoards serves no useful purpose under present circumstances. When added to the stock of

Federal reserve banks its serves as a basis for currency and credit. This further strengthening of the banking structure adds to its power of service toward recovery." (*See* Appendix I.) It does not strain credulity to imagine a modern administration of either political party making similar pronouncements today.

In order to stop what amounted to a run on the dollar as people withdrew their savings from the banks and converted it to gold, President Roosevelt issued his now famous Executive Order (*see* Appendix II) which confiscated gold held by American citizens. From 1933 until 1975 it was illegal for U.S. citizens to own bullion gold. There is another very important point to consider why Roosevelt took the action he did. Under the auspices of the "economic emergency", i.e. the Depression, he did not want any competition for the dollar which he felt should be positioned as the international reserve currency. He knew that if he could set the price of gold instead of the market setting the price, then he could go about fulfilling his political agenda without worrying about an attack on the dollar. There have been stories told about Roosevelt and then Treasury Secretary Andrew Mellon setting the gold price over a poached egg breakfast every morning--something which makes the socialist heart sing but does little for those of us who champion free markets and an auxilliary role for the government. When gold trades freely, citizens can vote on economic policy simply by purchasing gold. This is why, even under the current systems of free-floating currencies, Fed Chairman Alan Greenspan professes to watch the gold price so closely. It is an indicator how the financial community is receiving the Board's monetary policies.

Q: What other evidence is there that a future gold confiscation is a real possibility?

A: The "other" evidence would have be labeled circumstantial and speculative but worth considering nevertheless. In a nutshell, there simply is not enough gold in the Treasury for the United States (except at an absurdly high per ounce price) to buttress the enormous outstanding worldwide dollar liabilities should other nations demand something in payment besides additional paper promises. If the dollar were to fail and an economic collapse were to occur, there would be extraordinary international pressure to establish a gold component *of some type* behind the dollar. That is when a gold confiscation might become politically and economically expedient (without regard to the party in power), as it was in South Korea and Thailand during the recent Asian Contagion. The substantial gold holdings of the American people might then be called in to allay a new "emergency" and "save the dollar." Such a crisis at this juncture would probably be more far-reaching than anything Franklin Roosevelt faced in 1933 with all the attendant dangers for gold owners.

Q. Do you think the U.S. government can forestall a dollar crisis?

A. Of course, that is the ultimate question to which there is no quick and easy answer. The nature of gold ownership is such that one becomes an owner more often than not simply because one does not have an answer to that question. Gold ownership also implies that there is a lingering suspicion that it cannot be forestalled. The most frightening aspect of the U.S. government's response to dollar debasement has not been to alter the policies which have led to the problem, but to resort to accounting chicanery, political rhetoric, and outright lies in order to cover them up. Few, for example, believe the government's monthly inflation reports on consumer and producer prices. Nor do many believe that government is running a surplus when the national debt continues to grow at an alarming rate. For those who like to analyze and anticipate, the inability of politicians to even acknowledge that a problem exists not only heightens the reasons to own gold; it heightens the potential for a gold confiscation as an "easy-out." It follows that if a government is so unscrupulous as to blatantly cover up the extent of the debt and currency problem in the United States, it would be unscrupulous enough to sponsor a gold confiscation. Now, we want to careful here not to suggest that we believe a confiscation is inevitable and imminent because we do not. At the same time, the longer these problems go unattended, the greater the potential for widespread crisis, breakdown, and harsh measures to stem it.

Q. Is what you are describing then a *systemic* problem not likely to be easily resolved?

A. Yes, it is. Going back to Schumpeter's comment about the "modern mind disliking gold," that barb could just as well have been aimed at the socialist thinkers who have dominated the U.S. government since the days of Roosevelt and who are responsible for the policies at work in today's economy. This socialist mind is the modern mind that dislikes gold. Friedrich Hayek, one of the founders of the Austrian School of Economics and a Nobel Prize winner, wrote a book in 1944 titled "The Road to Serfdom." Hayek dedicated the treatise to "socialists of all parties." The basic premise of the book is that, once a government steps foot on the road to socialism, a chain of events is put in motion which leads to ever more stringent controls on the economy until finally the free-market system collapses and you end up with a dictator whose essential function is to control the economy. This, of course, is the process that culminated in Germany when Adolf Hitler rose to power in 1933. Hayek, who taught at the University of Chicago, did not think the United States was immune to this process. In fact, he warned repeatedly that we were headed down that same road. What gold ownership offers the investor is financial peace of mind with respect to these systemic risks. What pre-1933 gold ownership provides is an extra layer of protection against the unscrupulous politician that would take away that peace of mind. It is not a fool-proof, guaranteed strategy but, given the legal precedents outlined below, we believe it is the best protection available to gold investors.

Q: Why is private gold ownership so important to an individual investor's peace of mind?

A: When the people of Southeast Asia suffered an economic breakdown in 1998, they quickly discovered that gold ownership was the key to financial survival. Gold owners in those countries actually came out of the disaster relatively whole despite the widespread financial carnage. The same was true of gold holders during the 1920's hyperinflation in Germany and the deflationary breakdown in the West in the 1930s. Gold has a well-known and long history as an insurance policy against both inflationary and deflationary chaos for the conservative investor. At the risk of stating the obvious, it is also important to recognize that gold is the only *primary* asset which is not simultaneously another's liability. An ounce of gold in one's possession cannot be defaulted upon. This is why the yellow metal has long been a standard inclusion in European portfolios where the sense of history is more profound. In recent decades, this same affinity has developed among discreet investors in the United States and for the same reasons.

Q: What was the actual mechanism of the 1933 gold confiscation?

A: A series of Executive Orders was issued in early 1933 confiscating private gold (*see* Appendix II) and instituting a long list of other economic controls. All safety deposit boxes were sealed and could not be opened except in the presence of an IRS agent. Penalty for noncompliance was 10 years in prison and a $10,000.00 fine--which in today's dollars would be closer to $200,000. The official price was $20.67 per ounce. Once the gold was safely tucked away, Roosevelt set the price at $35, cutting the government an immediate 69% profit and devaluing all private dollar holdings by 60% (*see* Appendix III). Modern economists, such as Llewellyn Rockwell of the Von Mises Institute, believe that this devaluation severely deepened the Depression and that Roosevelt's real intent in confiscating gold was to clear the way for a dollar devaluation. The actual 1933 executive orders confiscating gold and exempting pre-1933 gold coins are included in Appendix II. There is little doubt that the over-arching reason for the confiscation though was to keep people from abandoning the crumbling banking system.

Q: What happened to those Americans who refused to obey Roosevelt's executive order?

A: Most turned in their gold, but there were two approaches by those refusing to obey the order. Some challenged the constitutionality of the law in the courts. They lost every case even though some cases dragged on for years. Others simply hid their gold. If they were caught, they faced the tough penalties mentioned above. Furthermore, it appears that there was not much to be gained by keeping the gold. There was no black market. There was no secondary market. And even if there would have been, the price was fixed by the government. The government filled all the gaps and closed all the loopholes. There was nothing to do but turn it in. As a citizen, you were effectively closed out of the gold market except, of course, if you happened to own pre-1933 gold coins. These were exempted by a later amendment to the executive order. (*See* Appendix II.)

Q: What is the best course of action for people to take in the event of another gold confiscation?

A: Obeying the law should be first and foremost. It makes no sense to become a criminal when there are alternatives which are legal and still get the job of asset preservation accomplished. There is an old saying: Don't get mad, get even. The way to get even is by beating them at their own game. You can structure your portfolio in the event of a confiscation down the road without incurring an onerous cost in so doing.

Q: On what basis do you support your contention that pre-1933 gold coins are the best way to go for those concerned with a potential confiscation?

A: There is a long history of legal precedent protecting pre-1933 gold coins as collectors' items dating from 1933 forward, beginning with language in Executive Order #6260 which exempts "gold coins having a recognized special value to collectors of rare and unusual coins." The classification as collectors' items is reinforced in Treasury regulations issued in 1954 stating that **all** pre-1933 gold coins would be classified as collectors' items and again in 1962 which allowed for the importation of **all** pre-1933 gold coins as collectors items.

Author, Donald Hoppe, offers an excellent layman's legal history of pre-1933 gold coins in his book titled *Investing in Gold Coins* which was published in 1970. (*See* Appendix V.) In it he says: "*In 1954, the Treasury Department recognized at last that the time had come to legitimize the numismatic gold market. Consequently, an amendment was made to the Gold regulations, to the effect that all gold coins minted prior to 1933 would subsequently be presumed to be rare and of recognized special value to collectors, without the necessity of further specific determinations by the Treasury.*"

Among the legalized coins were the fractional (of an ounce) European gold coins, such as the British Sovereign, Swiss 20 Franc, French Angel, and Dutch Guilder--to name a few. All are still available today at favorable premiums over their gold content. The popular U.S. $20 gold pieces were also exempted. (*See* Appendix VI.)

> Note: In Appendix IV, we include a good legal chronology from Henry Mark Holzer, J.D. (Ayn Rand's attorney) and extended and updated by George Cooper, J.D. (Centennial Precious Metals) from the research gathered for this memorandum.

Q: How do you explain Roosevelt's exemption of pre-1933 gold coins as collector items?

A: As a starting point, these items are protected under the Constitution's Fifth Amendment which states:

> "[N]or shall private property be taken for public use without just compensation."

This is the well-known Eminent Domain Clause of the Constitution which Jefferson and Madison felt so important in limiting the authority of the federal government. They knew all too well what happens when government is allowed to seize property without restriction. They had experienced these types of problems with respect to English sovereignty in the American colonies. What this means is that the individual can use the Eminent Domain Clause to extract a “fair” price from the government for coins that are subject to confiscation. “Fair” price connotes market price, in today’s understanding, and not an artificially set price by the powers in Washington. The Roosevelt administration probably envisioned countless lawsuits clogging the court system just to determine the value of someone’s coin collection. The country was in a depression and its resources needed to be spent on reviving the economy and not on getting bogged down in litigation. So it was not really a matter of the government winning the battle (because the outcome had already been determined by the Eminent Domain Clause), but rather it was a question of how much it would have to pay. Government advisors knew this fact and probably advised Roosevelt accordingly. Thus, the amendment to his Executive Order was issued. (*See* Appendix II.)

Secondly, pre-1933 coins represented a small fraction of all above-ground gold. Roosevelt was most concerned about flight capital and massive amounts of bullion being shipped out of the country by major players. Don’t forget that the real goal in a confiscation is to curtail gold trading as a speculation against the currency. By simply confiscating bullion, establishing price controls, and stemming the flow -- the Roosevelt administration met its objectives. The pre-1933 collectors items were an annoyance more than anything else. It was easier all the way around to simply leave these items legal.

Following that reasoning, we feel that a modern presidential administration faced with similar circumstances would react in much the same way the Roosevelt administration did in 1933.

Q: In the event of a gold confiscation, what price could a person expect to receive for his or her gold?

A: Technically, the official government gold price today is $42.22 per ounce (*see* Appendix IV) but practically speaking the government would have to confiscate gold at something closer to the current market price, or nobody would turn it in. Prominent economist, Murray Rothbard, argued in his book titled “The Case Against the Fed” (1994) that an official gold price of $1555 (along with several other stringent measures) would be required to relieve the chronic inflation besetting this country and stablize the dollar. Since then, the national debt has nearly doubled from $3 trillion to $6 trillion without signs of a let up. But even at a price of $3000, few would give up their gold happily with an economic crisis raging around them.

The problem here of course is that once you turn in your gold, you have lost your hedge against further currency depreciation. Gold investors sometimes comment that they are not concerned with a confiscation because the government will offer fair value in paper currency for the metal. This has not been the case. In 1933, Roosevelt confiscated gold at $20.67 an ounce. After much of America’s gold was safely ensconced in the U.S. Treasury, he upped the price to $35, cutting the government a nice profit and devaluing the dollar simultaneously by 60%. For Roosevelt, the confiscation served an additional purpose by allowing the dollar to be devalued without interference from domestic investors. In other words, in the event of a gold confiscation, there is a presumption that the government wouldn’t want your gold unless it had secret plans for the currency which would make the gold more valuable in the long run. As Ronald Reagan used to say: One of three great lies is “Hello, I’m from the government and I’m here to help you!”

Q: What items would be included in a future government confiscation?

A: If the government’s goal is the same as it was in 1933, then all gold bullion and gold bullion coins would be subject to a confiscation. This would include bullion coins South African Krugerrands, U.S. Eagles, Canadian Maple Leafs, Austrian Philharmonics, and any other coin that trades near the bullion price, as well as gold bullion bars. In addition, silver would probably be called in. In 1934, silver bullion was confiscated as well as gold for obvious reasons. The government did not want individuals speculating against the dollar by buying either silver or gold.

Q: Are there any other types of gold coins besides the pre-1933 European and U.S. $20 gold pieces that offer protection?

A: Yes, very rare collector coins or true numismatics, but this is a complicated and different market entirely. True numismatics has to do with collector, or rarity, value that far exceeds the gold content. This market is similar to the stock market in that the items trade at prices unrelated to the asset's intrinsic value and based instead on the supply and demand of each individual coin. We would classify true numismatics as an "investment vehicle" in which the investor's primary goal is to make a gain and secondarily protect against a breakdown. Conversely, we would classify pre-1933 gold coins as an "insurance policy" or "hedge" in which the owner hopes primarily to guard against a breakdown and secondarily hopes to make a gain.

Q: Beyond the hedging aspect, are there additional advantages to owning pre-1933 gold coins?

A: There is the potential for a double-play profit that should not be overlooked. First of all, these coins track the gold price so an investor benefits from an uptrend, and the premium could expand because of the huge demand already in motion. If there were ever a gold confiscation, pre-1933 gold coins would be the only legal form of monetary gold ownership. In such a situation, the premium could skyrocket.

Author, Henry Mark Holzer, in his monograph "How Americans Lost Their Right to Own Gold and Became Criminals in the Process" (*see* Appendix IV) refers to an article in *Barron's* on page 9 which appeared May 31, 1971. Holzer states in footnote 3 to his work that *"the value of certain gold coins had increased substantially over the prior three years. For example, in May 1968, the U.S. 'Double Eagle' had been selling at a premium of about 45% over the actual gold content of the coin, the official rate then being $35.00 per ounce. In May 1971, the premium was 69%. In May 1968, the German Mark piece had been selling at a 75% premium; in May 1971, the premium was 175%.*"

It is also important to mention that this strategy is being recommended by most of the top gold investment houses in the country and that thousands of investors own these coins--all for the reasons mentioned. With this increased awareness, we are now seeing a new kind of gold rush.

Q. What about liquidity?

A. These items also track the gold price and are liquid nearly anywhere in the world.

Q: What does the supply picture for pre-1933 coins look like?

A: Most of the coins are coming from Europe. There are suppliers whose major function is to find these coins and to supply them to the market. One of these sources has told us that the supply is fairly good and should last for a long time. Another told us that the supply is dwindling and that it would be in the investor's interest to accumulate as many coins as quickly as possible. So we get both opinions. Recent market action in 1998 and again in 1999 when gold jumped dramatically in a short period of time showed us that the supply just was not there. In fact, on both occasions the premiums expanded tremendously and the coins became hard to get from Europe. These coins were purchased in very heavy volumes during the Y2K scare and very little has been sold back since those concerns calmed. Instead investors decided to hold on when they saw stock values start to unravel and an inflationary psychology creeping back into the national picture. We doubt many of these items will come back into the market in the near future. Common sense tells us that the supply of pre-1933 gold coins will run out one day just based on the fact that they aren't making any more of them. Whether that will be sooner or later, no one knows.

Q: Is gold ownership in the United States a "right" or a "privilege?"

A: Congress views gold ownership as a *privilege*, not a *right*. The following was published in the Boston College International & Comparative Law Review. From the article entitled "State Attempts to Tax Sales of Gold Coin and Bullion in the United States: The Constitutional Implications," we quote:

> "The private ownership of gold is a privilege, not a right. Congress revoked the privilege of private ownership in 1933 and restored it in 1974. Congress could easily revoke the privilege again. In fact, at no time during this century has the U.S. government recognized the right of private gold ownership. The Trading with the Enemy Act, which President Roosevelt invoked in 1933 to restrict private gold transactions, remains law. The government could reactivate the machinery, which the Trading with the Enemy Act established, to implement gold confiscation." *5 Boston College Int'l & Comp. Law Review* 287, 320 (1982).

We should also add that another Executive Order by any future president, which calls for gold confiscation, could be put into effect by the stroke of a pen. It is important for our clientele to understand that, if a confiscation does happen, we doubt that the government will provide any warning. That is why it is important to act and to act now.

Q.Will the 21st century American politician react as Roosevelt did in 1933?

A. We'll leave that to the judgement of our readers, but in our view there is a strong probability that, under similar circumstances, similar political and economic policies would evolve. As Attorney Donald W. Doyle, Jr. wrote in his well-researched monograph, "Gold Confiscation: Why It Can Happen Again": "People who scoff at the suggestion that the government might restrict private gold ownership should remember that many other countries have restrictions on (or absolute prohibitions against) private gold ownership. In the event of severe inflation or official devaluation of the dollar, Clinton [Ed. Note: or any president] would have to either regulate gold ownership, or actually confiscate gold, in order to avoid conferring windfall profits on 'wealthy' gold owners and creditors. Like Roosevelt before him, Clinton [Ed. Note: or any president] will be prepared to take whatever steps are necessary. Roosevelt said it was "to prevent unfair profits from accruing to a very small group of creditors and the placing of unfair burdens . . . on the corresponding debtors." *3 Franklin D. Roosevelt Papers* at 73.

Q: What are the recommendations of Centennial Precious Metals?

A: For the reasons outlined in this memorandum, Centennial recommends that at least half of one's gold holdings be primarily in the form of pre-1933 European gold coins. Those with a higher level of concern about government intrusion into the gold market can increase the percentage from there based on one's own comfort level. Since the premium on some pre-1933 European gold coins is competitive with similarly sized bullion coins (fractionals), the client is not paying much more for the additional protection.

Q: You seem to emphasize the pre-1933 European gold coins. What about the old Twenty Dollar gold pieces?

A. Many Americans prefer to hold the pre-1933 $20 gold pieces as a hedge against confiscation and we do not see this as a problem. However, the investor needs to know that the old Double Eagles carry substantially more premium than the European coins. This means you will get less gold for your money -- considerably less. At the same time, some think it is worth the price to own an American coin. We leave choices like this to the client. *At the current gold price,* when you compare the upside potential -- both in terms of gold value *and* premium appreciation -- to what you are paying now on a per-ounce basis, we do not believe that the premiums for either the Double Eagles or the pre-1933 European coins present a major obstacle. Overall, we rate safety the higher priority.

Q. What if I already own bullion coins and would like to switch?

A. If you have gold holdings in Krugerrands, Maple Leafs, U.S. Eagles, Austrian Philharmonics or other gold bullion coins, we have a convenient program to assist you in the process. You can lock in the sale price for your bullion and the purchase price for your pre-1933 coins over the telephone. We will then send you the appropriate materials and paperwork so that you can send your bullion coins back to us via FedEx fully insured. This is a free service. We have already traded thousands of ounces in this manner and would recommend that any bullion holder, who is concerned with confiscation, contact us and discuss a trade.

Q: Are there any final points to consider?

A: There is a saying in the financial world that it is better to be a day early than an hour late. With respect to this issue of confiscation, you don't want to be an hour late. You don't want to be in a position of being separated from your gold at precisely the time you will most need it.

CAVEAT: Please be advised that the foregoing discussion is simply meant as a discussion of the issues and is not to be taken as legal advice. For that we recommend you consult your own attorney. As stated previously, owning pre-1933 gold coins is not a fool-proof strategy. We simply believe it to be the best strategy available.

Appendix I

From Constitutional Republic to Corporate State:
The Federal Reserve Board, 1931-34

by Dr. Walker F. Todd, October 1995

[The following was excerpted from Monograph 51 with the aforementioned title and is reprinted with permission of the Committee for Monetary Research and Education, Inc., 10004 Greenwood Court, Charlotte, North Carolina 28215.]

- - - - -

Another telling indictment of the legal, as distinct from the political, basis for the emergency proclamation that the Board's general counsel prepared was the following exchange between Roosevelt and Senator Glass in Roosevelt's hotel room at 11:30 on the night before the inauguration:

> [Roosevelt]: [Hoover says that the Board has asked him twice within the last three days to issue an emergency proclamation, but I told him that the governors of the states can take care of bank closings.]
>
> [Glass]: "Yes, I know."
>
> [Roosevelt]: "The previous time [that the Board asked Hoover for the proclamation] I sent [incoming Treasury Secretary William] Woodin to [outgoing Treasury Secretary Ogden] Mills to tell him I would not give my approval to such a proclamation."
>
> "I see. What are you planning to do?" asked Glass.
>
> "Planning to close them, of course," answered Roosevelt.
>
> "You will have no authority to do that, no authority to issue any such proclamation," protested Glass. "It is highly questionable in my mind if you will even have the authority to close national banks—and there is no question, at all, that you, even as President, will lack the authority to close banks chartered by the states."
>
> "I will have that authority," argued Roosevelt. "Under the Enemy Trading Act, passed during the World War and never rescinded by Congress, I, as President, will have the authority to issue such an emergency proclamation 'for the purpose,' as the Act says, 'of limiting the use of coin and currency to necessary purposes.'"
>
> "It is my understanding that President Hoover explored that avenue a year or two ago and again during recent days," said Glass. "Likewise, it is my understanding that the Attorney General informed him that it was highly questionable if, even under this act, though it has never been rescinded by Congress, the President has any such authority. Highly questionable because the likelihood is the act was dead with the signing of the Peace Treaty, if not before."
>
> "My advice is precisely the opposite."
>
> "Then you've got some expedient advice," returned Glass.... [Glass then argued that the courts

> would find the proclamation unconstitutional because it would require the unwarranted closing of solvent banks and because, even if all the banks were known to be insolvent,] "I am sure such a proclamation could not legally include banks chartered by the states." [Wyatt's written opinion of December 5, 1932, argued just the contrary, that the federal government could close state-chartered banks.]
>
> "Nevertheless," declared Roosevelt, "I am going to issue such a proclamation."

Convinced though he [Glass] was there had been no need for closing the banks [Glass believed that only insolvent banks could not withstand the runs of February-March 1933] and certain, too, the President was without constitutional authority for his act, those convictions were lost causes. (Smith and Beasley [1972], pp. 341-343)

Hoover writes in his memoirs that if Roosevelt really believed what he told Senator Glass late on March 3, then he should have joined Hoover in issuing a proclamation limiting withdrawals and issuing the 80 percent guarantee of deposits to avoid *closing* the banks: "But closing the banks would be a sign the country was in the ditch. It was the American equivalent of the burning of the Reichstag to create 'an emergency'" (Hoover [1952], p. 214). However, as noted in the earlier discussion of the measures taken from the fall of 1931 onward, it was Governor Meyer and the Board's staff who led the way in finding reasons for proclaiming emergencies and for pushing forward the boldest emergency relief schemes, against the recalcitrance of Hoover, who went along with much that he should not have but retained to the end the capacity to discern excess where the Board apparently did not.

As is generally known, one of President Roosevelt's first official acts after taking office on Inauguration Day (Saturday, March 4, 1933), was to proclaim an emergency, 3-day, nationwide banking holiday, signed and effective Monday, March 6. Late in the preinaugural banking crisis, on March 3, the Federal Reserve Board and the New York Reserve Bank's Governor Harrison had agreed that the Board would issue an order closing all the Federal Reserve Banks. New York Governor Herbert Lehman, at the urging of Governor Harrison, also agreed to proclaim an emergency bank holiday in New York, and a similar action was taken in Illinois. Thus, the Board had placed first Hoover and then Roosevelt in a position in which, as a practical matter, the president could not allow Monday to arrive without some kind of emergency proclamation (Pusey [1974], p. 237).

These extraordinary actions tended to intensify the crisis atmosphere. As Schlesinger writes:

> Whether revolution was a real possibility or not, faith in a free system was plainly waning. Capitalism, it seemed to many, had spent its force; democracy could not rise to economic crisis. The only hope lay in governmental leadership of a power and will which representative institutions seemed impotent to produce. Some looked enviously on Moscow, others on Berlin and Rome.... (Schlesinger [1959], p. 3)

Senators Cutting (New Mexico), La Follette (Wisconsin), and Costigan (Colorado) urged Roosevelt to nationalize the administration, if not the ownership, of the banking system, but the president decided not to do so because of assurances of bankers' cooperation with his New Deal reform plans (*ibid*., p. 5). He limited his initiative in this respect to Federal control of the licensing procedure for reopening banks after the holiday. Representative Hamilton Fish of New York, after Roosevelt's first "fireside chat" on March 12, "proudly pronounced the new regime 'an American dictatorship based on the consent of the governed without any violation of individual liberty or human rights'" (*ibid*., p. 15). The text of that fireside chat, "relative to the banking situation," is printed in full in the *Federal Reserve Bulletin* ([1933], vol. 19, pp. 120-122), a circumstance that, in light of everything else that transpired then, causes one to wonder who actually drafted that text for Roosevelt.

The appearance of radical innovations, some of them at least mildly corporatist in nature, at the Federal Reserve Board during the first 6 months or so of the Roosevelt administration should not have been all that surprising in the context of contemporary Washington events. In any case, the Emergency Banking Act of March 9, 1933 was suggested to Roosevelt by a team of holdover Hoover administration advisers that included, from the Board, Walter Wyatt, E. A. Goldenweiser (the Board's director of research and statistics), and Governor Meyer. Wyatt and Hoover's treasury undersecretary, Arthur Ballantine, drafted the Emergency Banking Act, with Wyatt being particularly responsible for the National Bank Conservation Act (Title II of the Act) and the RFC preferred-stock-purchase program (Section 304 of the Act).

There followed a host of legislative initiatives, now retrospectively and collectively termed the First New Deal or the One Hundred Days, and many of those initiatives were begun or substantially modified by the recommendations of the Board. On March 24,1933, the Emergency Banking Act was amended to authorize, for up to 1 year, reserve banks' loans to any nonmember bank on "eligible" collateral under Section 13 of the Federal Reserve Act and, after inspection of collateral and "a thorough examination" of the applicant, to any nonmember bank on ineligible collateral under the then-current version of Section 10(b) of the Act, which still required a finding of "unusual and exigent circumstances" by at least five governors of the Board (Board of Governors, *Annual Report* [1933], p. 266). The Treasury issued numerous regulations, licensing orders, and statements regarding the banks throughout the month of March, and most, if not all, of them were drafted or cleared for issuance by the Board's staff (see *Federal Reserve Bulletin* [1933], vol. 19, pp. 122-133). As evidence that the Board was slightly more enthusiastic than the reserve banks for compliance with the new order of things in Washington, the March 1933 *Bulletin* (*ibid*., pp. 130-131) reports that on March 8, the Board asked the reserve banks to prepare and forward a list of all persons who had withdrawn gold or gold certificates from the reserve banks or from member banks since February 1,1933, "and who had not redeposited it in a bank on or before March 13, 1933," later extended to March 27. "The board also advised them [the reserve banks] that it had no objection to obtaining similar information from nonmember banks and information regarding withdrawals prior to February 1" (ibid.).

What the Board and the Roosevelt administration intended to do with the information about gold withdrawals soon became evident. On April 5,1933, President Roosevelt issued an executive order "forbidding the hoarding of gold coin, gold bullion and gold certificates." Willful violation of the order would cause a fine of up to $10,000 or up to 10 years' imprisonment, the penalties for a Federal felony. "Hoarding" was defined as the withholding from the recognized and customary channels of trade of gold worth more than $100 for individuals. The authority cited for that order, which a press statement issued by the Treasury indicated "was in contemplation from the time of the passage of the Emergency Banking Act [March 9]" (*ibid*., pp. 213-214), included the same Trading with the Enemy Act of October 6, 1917 that Walter Wyatt held to be the basis for the president's emergency bank holiday proclamation on March 6. Indeed, the stated purpose of that emergency bank holiday proclamation had been "to prevent the export, hoarding, or earmarking of gold or silver coin or bullion or currency" (*ibid*., p. 114). The Treasury's press statement continued as follows:

> [W]hile many of our citizens voluntarily and helpfully turned in their gold [after March 8], there were others who did not so respond. In fairness, the conduct of all citizens with reference to gold should be the same in this emergency, and this is assured by the order. Gold held in private hoards serves no useful purpose under present circumstances. When added to the stock of the Federal reserve banks it serves as a basis for currency and credit. This further strengthening of the banking structure adds to its power of service toward recovery. (*Ibid*., p. 215)

On April 20, 1933, operating under the authority of that same Trading with the Enemy Act, President

Roosevelt issued an executive order making it a Federal felony to export gold or gold certificates, or to earmark domestic gold for foreign account, without a license from the Treasury. Foreshadowing the August 1971 events at Camp David that affected official U.S. gold transactions, this April 1933 proclamation marked the end of the U.S. gold standard for private international transactions. On April 29, the Treasury issued regulations governing domestic purchases of gold for industrial, professional, and artistic uses and the exportation of gold (*ibid*., pp. 266-269).

Pressed by political demands "for inflation," largely from "a few crackpot congressmen and senators. . ., a few businessmen and farm leaders organized under the title 'The Committee for the Nation,' and a couple of starry-eyed monetary experts," Roosevelt acceded to the demands of the inflationists on April 18 and 19 and decided to block private exports of gold before announcing his public acceptance of the inflationary provisions of Title III of the Agricultural Adjustment Act of May 12,1933 (amended on May 27, 1933), sponsored by Senator Elmer Thomas of Oklahoma (Moley [1939], pp. 156-161; *Federal Reserve Bulletin* [1933], vol. l9, pp. 307-318, 333-338). Because the Thomas Amendment (Title III) passed overwhelmingly on April 28 in both houses of Congress, 64-21 in the Senate and 307-86 in the House of Representatives, it is unclear that resistance by the Board could have been effective in preventing enactment of the amendment. However, Raymond Moley's narrative (the best published account of the Thomas Amendment) does not indicate that anyone from the Federal Reserve was present at the White House during the crucial debates on April 18 and 19 that persuaded Roosevelt to endorse the amendment.

Meyer's biography tends to confirm this version of events: After the banks began to reopen in mid-March, Meyer no longer went to the White House, asked permission to resign as governor of the Board on March 24, and finally left the Board on May 10 (Pusey [1974], pp. 238-241; *Federal Reserve Bulletin* [1933], vol.19, p.273). Moley later opined that Roosevelt, believing congressionally mandated monetary inflation to be inevitable, had concluded that he should endorse the Thomas Amendment in order "to circumvent uncontrolled inflation by Congress," but Budget Director Lewis Douglas declared, "Well, this is the end of Western civilization" (Moley [1939], pp. 160-161). At about this time at the Board, Floyd Harrison resigned as assistant to the governor on May 15; J. F. T. O'Connor was appointed comptroller of the currency on May 11 and became an ex-officio member of the Board; and Eugene R. Black, governor of the Federal Reserve Bank of Atlanta since 1928, was appointed governor of the Board, replacing Meyer on May 17, 1933 (*Federal Reserve Bulletin* [1933], vol. l 9, p.273).

The Thomas Amendment authorized the president to direct the secretary of the treasury to negotiate with the Board to permit the reserve banks to conduct open-market operations in U.S. Government obligations and to purchase up to $3 billion of securities directly from the Treasury (all such transactions until then having been restricted by statute to the open market) during economic emergencies or to stabilize the dollar domestically or internationally. If the reserve banks refused to make the purchases requested, or if their open-market operations were inadequate, the president could authorize the Treasury to issue up to $3 biIlion of inconvertible, legal-tender, "greenback" currency notes, to be retired over a 25-year schedule. The president was also authorized to issue a proclamation fixing the gold weight of the dollar at a ratio as much as 50 percent below the pre-1933 standard of $20.67 per ounce of gold, in grains 90 percent fine. There was a silver purchase section (up to $200 million) and, finally, an amendment of Section 19 of the Federal Reserve Act to authorize the Board, by a vote of at least five members and with the president's approval, to increase or decrease reserve requirements if "an emergency exists by reason of credit expansion...." (*Federal Reserve Bulletin* [1933], vol. 19, pp. 317-318). On May 27, the Thomas Amendment was further amended to provide that all coins and currencies of the United States, including Federal Reserve notes, were legal tender; previously, those notes had only "lawful money" status, but they were convertible into gold before March 1933 (*ibid*., pp. 336-338). Congress passed a Joint Resolution, H. J. Res. 192, Public Resolution No. 73-10, on June 5, 1933, affirming this interpretation of the Thomas Amendment (*ibid*., p. 338.)

Reference works cited in this excerpt are as follows:

1. Smith, Rixey, and Norman Beasley. *Carter Glass: A Biography* (New York: Da Capa Press, 1972).

2. Hoover, Herbert. *The Great Depression: 1929-1941*, vol. 3 of *The Memoirs of Herbert Hoover* (New York: Macmillan Company, 1952).

3. Pusey, Merlo. *Eugene Meyer* (New York: Alfred A. Knopf, 1974).

4. Schlesinger, Arthur. *The Coming of the New Deal*, vol. 2 of *The Age of Roosevelt* (Boston: Houghton Mifflin Company/Riverside Press, 1959).

5. Board of Governors of the Federal Reserve System. *Federal Reserve Bulletins* (Washington, D.C.: Board of Governors, 1914-1992).

6. Board of Governors of the Federal Reserve System. *Annual Reports.* (Washington, D.C.: Board of Governors, 1914-1992).

7. Moley, Raymond. *After Seven Years* (New York: Harper & Brothers, 1939).

APPENDIX II

CHRONOLOGY OF DOCUMENTS RELATING TO GOLD CONFISCATION

Applicable Federal Laws and Regulations From 1933 to 1974

A. Executive Order #6102 (April 5, 1933) Confiscating Gold

I as President, do declare that the national emergency still exists; that the continued private hoarding of gold and silver by subjects of the United States poses a grave threat to peace, equal justice, and well-being of the United States; and that appropriate measures must be taken immediately to protect the interests of our people.

Therefore, pursuant to the above authority, I hereby proclaim that such gold and silver holdings are prohibited, and that all such coin, bullion or other possessions of gold and silver be tendered within fourteen days to agents of the Government of the United States for compensation at the official price, in the legal tender of the Government. All safe deposit boxes in banks or financial institutions have been sealed pending action in the due course of the law. All sales or purchases or movements of such gold and silver within the borders of the United States and its territories, and all foreign exchange transactions or movements of such metals across the border are hereby prohibited.

Your possession of these proscribed metals and/or your maintenance of a safe deposit box to store them is known to the government from bank and insurance records. Therefore, be advised that your vault box must remain sealed, and may only be opened in the presence of an agent of the Internal Revenue Service.

[Note: This document can be found in volume 2 of *The Public Papers and Addresses of Franklin D. Roosevelt* at 111-116.]

B. Executive Order #6260 (August 28, 1933) -- The Operative Executive Order Confiscating Gold/Exempting Gold Coin Collector Items minted prior to 1934; Revokes Previous Order #6102

RELATING TO THE HOARDING, EXPORT, AND EARMARKING OF GOLD COIN, BULLION, OR CURRENCY AND TO TRANSACTIONS IN FOREIGN EXCHANGE

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 “, I, FRANKLIN D. ROOSEVELT, PRESIDENT of the UNITED STATES OF AMERICA, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following provisions for the investigation and regulation of the hoarding, earmarking, and export of gold coin, gold bullion, and gold certificates by any person within the United States or any place subject to the jurisdiction thereof, and for the investigation and regulation of transactions in foreign exchange and transfers of credit and the export or withdrawal of currency from the United States or any place subject to the jurisdiction thereof by any person within the United States or any place subject to the jurisdiction thereof.

SEC. 2. DEFINITIONS.-As used in this order the term "person" means an individual, partnership, association, or corporation, and the term “United States" means the United States and any place subject to the jurisdiction thereof.

SEC. 3. RETURNS.-Within 15 days from the date of this order every person in possession of and every person owning gold coin, gold bullion, or gold certificates shall make under oath and file as hereinafter provided a return to the Secretary of the Treasury containing true and complete information relative thereto, including the name and address of the person making the return, the kind and amount of such coin, bullion, or certificates held and the location thereof, if held for another, the capacity in which held and the person for whom held, together with the post-office address of such person, and the nature of the transaction requiring the holding of such coin, bullion, or certificates and a statement explaining why such transaction cannot be carried out by the use of currency other than gold certificates, provided that no returns are required to be filed with respect to-

(a) Gold coin, gold bullion, and gold certificates in an amount not exceeding in the aggregate $100 belonging to any one person.

(b) Gold coin having a recognized special value to collectors of rare and unusual coin,

(c) Gold coin, gold bullion, and gold certificates acquired or held under a license heretofore granted by or under authority of the Secretary of the Treasury, and

(d) Gold coin, gold bullion, and gold certificates owned by Federal Reserve banks.

Such return required to be made by an individual shall be filed with the collector of internal revenue for the collection district in which such individual resides, or, if such individual has no legal residence in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by a partnership, association, or corporation shall be filed with the collector of internal revenue of the collection district in which is located the principal place of business or principal office or agency of such partnership, association, or corporation, or, if it has no principal place of business or principal office or agency in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by an individual residing in Alaska shall be filed with the collector of internal revenue at Seattle, Wash. Such return required to be made by a partnership, association, or corporation having its principal place of business or principal office or agency in Alaska shall be filed with the collector of internal revenue at Seattle, Wash.

The Secretary of the Treasury may grant a reasonable extension of time for filing a return, under such rules and regulations as he shall prescribe. No such extension shall be for more than 45 days from the date of this Executive order. An extension granted hereunder shall be deemed a license to hold for a period ending 15 days after the expiration of the extension.

The returns required to be made and filed under this section shall constitute public records, but they shall be open to public inspection only upon order of the President and under rules and regulations prescribed by the Secretary, of the Treasury.

A return made and filed in accordance with this section by the owner of the gold coin, gold bullion, and gold certificates described therein, or his duly authorized agent, shall be deemed an application for the issuance under section 5 hereof of a license to hold such coin, bullion, and certificates.

SEC. 4. ACQUISITION OF GOLD COIN AND GOLD BULLION.- No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive order, provided that member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank, and provided further that persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of $100, by acquisitions of gold bullion held under licenses issued under section 5(b), without necessity of obtaining a license for such acquisitions.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the acquisition of-

> (a) Gold coin or gold bullion which the Secretary is satisfied is required for a necessary and lawful transaction for which currency other than gold certificates cannot be used, by an applicant who establishes that since March 9, 1933, he has surrendered an equal amount of gold coin, gold bullion, or gold certificates to a banking institution in the continental United States or to the Treasurer of the United States;
>
> (b) Gold coin or gold bullion which the Secretary is satisfied is required by an applicant who holds a license to export such an amount of gold coin or gold bullion issued under subdivisions (c) or (d) of section 6 hereof, and
>
> (c) Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by an applicant regularly engaged in such industry, profession, or art, or in the business of furnishing gold therefor.

Licenses issued pursuant to this section shall authorize the holder to acquire gold coin and gold bullion only from the sources specified by the Secretary of the Treasury in regulations issued hereunder.

SEC. 5. HOLDING OF GOLD COIN, GOLD BULLION, AND GOLD CERTIFICATES. -After 30 days from the date of this order no person shall hold in his possession or retain any interest, legal or equitable, in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any person subject to the jurisdiction of the United States, except under license therefor issued pursuant to this Executive order; provided, however, that licenses shall not be required in order to hold in possession or retain an interest in gold coin, gold bullion or gold certificates with respect to which a return need not be filed under section 3 hereof.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the holding of-

> (a) Gold coin, gold bullion, and gold certificates, which the Secretary is satisfied are required by the person owning the same for necessary and lawful transactions for which currency, other than gold certificates, cannot be used,
>
> (b) Gold bullion which the Secretary, or such agency as he may designate is satisfied is required for legitimate and customary use in industry, profession, or art by a person regularly engaged in such industry, profession, or art or in the business of furnishing gold therefor;
>
> (c) Gold coin and gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government or foreign central bank or the Bank for International Settlements, and
>
> (d) Gold coin and gold bullion imported for reexport or held pending action upon application for export licenses.

SEC. 6. EARMARKING AND EXPORT OF GOLD COIN AND GOLD BULLION. -After the date of this order no person shall earmark or export any gold coin, gold bullion, or gold certificates from the United States, except under license therefor issued by the Secretary of the Treasury pursuant to the provisions of this order.

The Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, may issue licenses authorizing-

> (a) The export of gold coin or gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government, foreign central bank, or the Bank for International Settlements;
>
> (b) The export of gold, (i) imported for reexport, (ii) refined from gold-bearing materials imported by the applicant under an agreement to export gold, or (iii) in bullion containing not more than 5 ounces of gold per ton,
>
> (c) The export of gold coin or gold bullion to the extent actually required for the fulfillment of a contract entered into by the applicant prior to April 20, 1933, but not in excess of the amount of the gold coin, gold bullion, and gold certificates surrendered by the applicant on or after March 9, 1933, to a banking institution in the continental United States or to the Treasurer of the United States, and
>
> (d) The earmarking for foreign account and/or export of gold coin or gold bullion, with the approval of the President, for transactions which the Secretary of the Treasury may deem necessary to promote the public interest.

SEC. 7. UNITED STATES POSSESSIONS-SHIPMENTS THERETO.-The provisions of sections 3 and 5 of this order shall not apply to gold coin, gold bullion, or gold certificates which is situated in the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States, and is owned by a person not domiciled in the continental United States. The provisions of section 4 shall not apply to acquisitions by persons within the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States of gold coin or gold bullion which has not been taken or sent thereto since April 5, 1933, from the continental United States or any place subject to the jurisdiction thereof.

SEC. 8. Until further order, the Secretary of the Treasury is authorized, through any agency that he may designate, to investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit from any banking institution within the United States to any foreign branch or office of such banking institution or to any foreign bank or banker, and the export or withdrawal of currency from the United States, by any person within the United States; and the Secretary of the Treasury may require any person engaged in any transaction referred to herein to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction is completed.

SEC. 9. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this order. Such regulations may provide for the detention in the United States of any gold coin, gold bullion, or gold certificates sought to be transported beyond the limits of the continental United States, pending an investigation to determine if such coin, bullion, or certificates are held or are to be acquired in violation of the provisions of this Executive order. Licenses and permits granted in accordance with the provisions of this order and the regulations prescribed hereunder, may be issued through such officers or agencies as the Secretary may designate.

SEC. 10. Whoever willfully violates any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SEC. 11. The Executive orders of April 5, 1933, forbidding the hoarding of gold coin, gold bullion, and gold certificates, and April 20, 1933, relating to foreign exchange and the earmarking and export of gold coin or bullion or currency, respectively, are hereby revoked. The revocation of such prior Executive orders shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause prior to said revocation, but all liabilities under said Executive orders shall continue and may be enforced in the same manner as if said revocation had not been made. This Executive order and any regulations or licenses issued hereunder may be modified or revoked at any time.

[Note: This document can be found in volume 2 of *The Public Papers and Addresses of Franklin D. Roosevelt* at 345-352.]

C. Amendment to Executive Order 6260 Exempting Pre-1933 Gold Coins from Confiscation (December 28, 1933)

ORDER OF THE SECRETARY OF THE TREASURY, DECEMBER 28, 1933, REQUIRING THE DELIVERY OF GOLD COIN, GOLD BULLION, AND GOLD CERTIFICATES TO THE TREASURER OF THE UNITED STATES.

Whereas Section 11 of the Federal Reserve Act of December 23, 1913, as amended by Section 3 of the act of March 9, 1933, entitled “An act to provide relief in the existing national emergency in banking, and for other purposes”, provides in subsection (n) as follows:

“Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect to which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise”; and

Whereas in my judgment such action is necessary to protect the currency system of the United States;

Now, therefore, I, Henry Morgenthau, Jr., Acting Secretary of the Treasury, do hereby require every person subject to the jurisdiction of the United States forthwith to pay and deliver to the Treasurer of the United States all gold coin, gold bullion, and gold certificates situated in the United States, owned by such person, except as follows:

(b) Gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as $2.50 pieces).

[**Editor's Note**: A subsequent Order of the Treasury dated January 11, 1934 amended section (b) to read as follows: "Gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as $2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design, and struck by a the same mint."]

D. All Pre-1933 Gold Coins Designated Collectors' Items (1954)

Title 31 of Code of Federal Regulations--Money and Finance: Treasury
Chapter 1--Monetary Offices, Department of the Treasury
Part 54--Gold Regulations
Subpart B--Conditions Under Which Gold May Be Acquired and Held, Transported, Melted or Treated, Imported, Exported or Earmarked

The full text of the Gold Regulations, as hereby amended, is found at 31 CFR Part 54. These amendments incorporate into the Gold Regulations the following changes:

Sec. 54.12 *Conditions under which gold may be acquired, held, melted, etc.* Gold in any form may be acquired, held, transported, melted or treated, imported, exported, or earmarked only to the extent permitted by and subject to the conditions prescribed in the regulations in this part or licenses issued thereunder.

Sec. 54.14 *Gold situated outside of the United States.* Gold in any form situated outside of the United States may be acquired, transported, melted or treated, or earmarked or held in custody for foreign or domestic account without the necessity of holding a license.

Sec. 54.15 *Gold situated in the possessions of the United States.* Gold in any form (other than United States gold coin) situated in places subject to the jurisdiction of the United States beyond the limits of the continental United States may be acquired, transported, melted or treated, imported, exported, or earmarked or held in custody for the account of persons other than residents of the continental United States, by persons not domiciled in the continental United States: *Provided, however*, That gold maybe transported from the continental United States to the possessions of the United States only as authorized by Secs. 54.25, 54.32, 54.33, or 54.34, or licenses issued pursuant thereto.

Sec. 54.20 *Rare Coin.* (a) Gold coin of recognized special value to collectors of rare and unusual coin may be acquired and held, transported within the United States, or imported without the necessity of holding a license therefor. Such coin may be exported, however, only in accordance with the provisions of Sec. 54.25.

(b) Gold coin made prior to April 5, 1933, is considered to be of recognized special value to collectors of rare and unusual coin.

(c) Gold coin made subsequent to April 5, 1933, is presumed not to be of recognized special value to collectors of rare and unusual coin.

Sec. 54.25 *Licenses*

(b)(3) *Rare coin.*

(i) Rare gold coin, as defined in Sec. 54.20, made prior to April 5, 1933, may be exported or transported from the continental United States without the necessity of obtaining a Treasury gold license: *Provided, however*, That the shipper's export declaration shall contain a statement that such coin is rare gold coin and is being exported pursuant to the authorization contained in this subparagraph and such additional documentation shall be furnished as may be requested by the Bureau of Customs or any other government agency charged with the enforcement of laws relating to the exportation of merchandise from the United States.

(ii) Gold coin made subsequent to April 5, 1933, may be exported or transported from the continental United States only under license on Form TGL-11 issued by the Director of the Mint. Application for such a license shall be executed on Form TG-11 and filed with the Director of the Mint, Treasury Department, Washington 25, D.C.

F. Executive Order 10905 (1961)--Prohibits Americans from Owning Gold Situated Outside the United States

Amendment of Executive Order No. 6260 of August 28, 1933, as Amended

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended, 12 U.S.C. Sec. 95(a), and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended, as follows:

1. By amending section 2 to read as follows:

"2. As used in this order, the term 'person' means an individual, partnership, association or corporation; the term 'United States' means the United States and any place subject to the jurisdiction thereof; and the term 'person subject to the jurisdiction of the United States' means: (a) any individual who is a citizen of the United States; (b) any individual, wherever located, who is a resident of, or domiciled in, the United States; (c) any partnership, association, corporation, or other organization which is organized or doing business under the laws of the United States or any state or territory thereof or the District of Columbia; and (d) any partnership, association, corporation or other organization wherever organized or doing business which is owned or controlled by persons specified in (a), (b), or (c)."

2. By adding at the end thereof a new section 12 reading as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin (other than gold coin having a recognized special value to collectors of rare and unusual coin), gold certificates, or gold bullion situated outside of the United States, or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting, until June 1, 1961, the holding and disposition of any such securities or gold coin, certificates or bullion acquired by persons subject to the jurisdiction of the United States prior to the effective date of this section and owned by such persons on such date. The Secretary is further authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession or art in which such person is regularly engaged."

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

DWIGHT D. EISENHOWER
THE WHITE HOUSE,
January 14, 1961

[Note: This document can be found at 26 *Federal Register* 321 (1961)]

G. Executive Order 11037 (1962)--Prohibition Against Americans Owning Gold Outside the United States, Including New Restrictions on Importation of Collectible Gold Coins

Amendment of Section 12 of Executive Order No. 6260 of August 28, 1933, As Amended

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917, as amended, 12 U.S.C. 95a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, John F. Kennedy, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended, as follows:

1. Section 12 is amended to read as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin, gold certificates, or gold bullion, situated outside of the United States or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession, or art in which such person is regularly engaged."

2. Notwithstanding the provisions of Section 1 of this Order, the Secretary of the Treasury is authorized to issue licenses permitting, until January 1, 1963, the holding and disposition or importation of gold coins having a recognized special value to collectors of rare and unusual coin situated outside of the United States which were acquired by persons subject to the jurisdiction of the United States prior to the effective date of this amendment and are owned by such persons on such date.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.
JOHN F. KENNEDY

THE WHITE HOUSE,
July 20, 1962

[Note: This document can be found at 27 *Federal Register* 6967 (1962)]

[**Editor's Note**: The Treasury Department, Office of Domestic Gold and Silver Operations, issued a brief explanation about the two executive orders in 1961 and 1962. “The restrictions in the Gold Regulations on gold coins implement the Gold Reserve Act of 1934, the purpose of which was to improve the United States monetary system by centralizing and conserving the nation's gold stock and by prohibiting the private holding of gold as a store of value. Under this Act and the Regulations, private citizens are permitted to have gold only as needed for legitimate and customary use in industry, profession or art. Also, there have always been exemptions for gold coins of recognized special value to collectors.

Originally, the Gold Regulations were applicable only to gold and gold coins situated within the United States. However, in 1961, restrictions were placed on the acquisition, holding, etc., by United States nationals of gold situated overseas. In 1962 the special restrictions. . . were imposed on the acquisition abroad and importation of rare gold coins for the reason that it had been brought to our attention that there appeared to be a certain amount of interest on the part of Americans in taking advantage of the exceptions in the Gold Regulations for rare gold coins to speculate in and hoard gold. Moreover, many countries began producing restrikes of their pre-1933 gold coins and there was an appreciable amount of counterfeiting of gold coins made before this date.”]

H. Amendment to Section 54.20 of the Gold Regulations (1969)--Allowing Importation of Coins Before 1934 Without a License

RULES AND REGULATIONS
TITLE 31—MONEY AND FINANCE: TREASURY
Chapter I—Monetary Offices, Department of the Treasury
PART 54--GOLD REGULATIONS
Imports of Gold Coin

Section 54.20 of the Gold Regulations is being amended to permit the importation without a license of gold coins made before 1934. Licenses will be required to import any gold coins made during 1934 or later. Licenses for importation may be issued for coins minted before 1960 which can be established to the satisfaction of the Director, Office of Domestic Gold and Silver Operations, to be of recognized special value to collectors of rare and unusual coin and to have been originally issued to circulate as coinage within the country of issue. Licenses for importation may be issued for gold coins made during or subsequent to 1960 only in cases where the particular coin was licensed for importation prior to April 30, 1969. Because the amendments relieve an existing restriction and in the case of coins made after 1933 make no change in present Regulations and licensing policies, it is found that notice and public procedure thereon are unnecessary.

Section 54.20 is amended to read: § 54.20 Rare coin.

(a) Gold coin of recognized special value to collectors of rare and unusual coin may be acquired, held, and transported within the United States without the necessity of holding a license therefor. Such coin may be imported, however, only as permitted by this section or §§ 54.28 to 54.30, 54.34 or licenses issued thereunder, and may be exported only in accordance with the provisions of § 54.25.

(b) Gold coin made prior to 1934 is considered to be of recognized special value to collectors of rare and unusual coin.

(c) Gold coin made during or subsequent to 1934 is presumed not to be of recognized special value to collectors of rare and unusual coin.

(d) Gold coin made prior to 1934 may be imported without the necessity of obtaining a license therefor.

(e) Gold coin made during or subsequent to 1934 may be imported only pursuant to a specific or general license issued by the Director, Office of Domestic Gold and Silver Operations. Licenses under this paragraph may be issued only for gold coin made prior to 1960, which can be established to the satisfaction of the Director to be of recognized special value to collectors of rare and unusual coin and to have been originally issued for circulation within the country of issue. Licenses may be issued for gold coin made during or subsequent to 1960 in cases where the particular coin was licensed for importation prior to April 30, 1969. Application for a specific license under this paragraph shall be executed on Form TG-31 and filed in duplicate with the Director.

(Sec. S(b), 40 Stat. 415, as amended, secs. 3, 8, 9, 11, 48 Stat. 340, 341, 342; 12 U.S.C. 95a, 31 U.S.C. 442, 733, 734, 822b, E.O. 6260, Aug. 28, 1933, as amended by E.O. 10896, 25 P.R. 12281, E.O. 10905, 26 P.R. 321, E.O. 11037, 27 P.R. 6967; 3 CFR, 1959-63 Comp. and E.O. 6359, Oct. 25, 1933, E. O. 9193, as amended, 7 F.R. 5205; 3 CPR 1943, Cum. Supp., E.O. 10289, 16 F.R. 9499, 3 CPR, 1949-53 Comp.)

Effective date: These amendments shall become effective on publication in the FEDERAL REGISTER.

Dated: April 22, 1969.
(SEAL)

PAUL A. VOLCKER,
Under Secretary for Monetary Affairs.

News Release with Respect to Relaxing Gold Coin Limitations/Paul Volcker

TREASURY DEPARTMENT
Washington, D.C. 20220
FOR RELEASE ALL NEWSPAPERS
Saturday, April 26, 1969

Treasury Relaxes Licensing Regulations of Gold Coin Imports

The Treasury Department announced today a revision of gold coin import regulations to permit imports of gold coins minted prior to 1934 without license.

Relaxation of the licensing requirement is effective today and was made to remove an inconsistency in regulations on imported pre-1934 gold coins, which generally had to have licenses, and those regularly traded within the United States.

Gold coins minted during or after 1934, however, may be imported only with a license from the Director, Office of Domestic Gold and Silver Operations, Treasury Department, Washington, D. C. Such licenses are issued only for rare and unusual coins of recognized special value to collectors. Importation of gold coins minted in 1960 or afterwards still will not be licensed.

Before this change in the regulations, all coins made prior to April 5, 1933 could be freely bought, sold, and held within the United States. However, only rare and unusual gold coins could be imported and then only pursuant to a specific license. Under this standard, certain coins minted before 1934 did not qualify for import even though they were freely traded in the domestic market. With the change in the Regulations any gold coin may be imported which can now be legally traded within the United States.

The amendments will simplify existing restrictions on numismatists while continuing to serve the basic purpose of the Gold Regulations. The current licensing policy will be retained for coins minted after January 1, 1934.

Gold coins may still be detained at Customs stations for examination as to their authenticity. Counterfeit coins may not be imported and are subject to seizure. Restrikes, that is modern reproductions of gold coins bearing a much earlier date, will also not qualify for importation. Therefore, travelers and coin collectors should be especially careful that the coins they purchase abroad are genuine.

I. Congressional Act in 1974 to Re-Legalize Gold Ownership by U.S. Citizens

Public Law 93-373 (August 14, 1974)

An Act: To provide for increased participation by the United States in the International Developement Association and to permit United States citizens to purchase, hold, sell, or otherwise deal with gold in the United States or abroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 2. Subsections 3 (b) and (c) of Public Law 93-110 (87 Stat. 352) are repealed and in lieu thereof add the following:

"(b) No provision of any law in effect on the date of enactment of this Act, and no rule, regulation, or order in effect on the date subsections (a) and (b) become effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad.

"(c) The provisions of subsections (a) and (b) of this section shall takeeffect either on December 31, 1974, or at any time prior to such date that the President finds and reports to Congress that international monetary reform shall have proceeded to the point where elimination of regulations on private ownership of gold will not adversely affect the United States' international monetary position."

[Note: This law can be found at 88 *U.S. Statutes at Large* 445 (1974)]

J. Executive Order 11825 (1974)--Revocation of Executive Orders Pertaining to the Regulation of the Acquisition of, Holding of, or Other Transactions in Gold

By virtue of the authority vested in me by section 1 of the Act of August 8, 1950, 64 Stat. 419, and section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a), and as President of the United States, and in view of the provisions of section 3 of Public Law 93-110, 87 Stat. 352, as amended by section 2 of Public Law 93-373, 88 Stat. 445, it is ordered as follows:

SECTION 1. Executive Order No. 6260 of August 28, 1933, as amended by Executive Order No. 6359 of October 25, 1933, Executive Order No. 6556 of January 12, 1934, Executive Order No. 6560 of January 15, 1934, Executive Order No. 10896 of November 29, 1960, Executive Order No. 10905 of January 14, 1961, and Executive Order No. 11037 of July 20, 1962; the fifth and sixth paragraphs of Executive Order No. 6073, March 10, 1933; sections 3 and 4 of Executive Order No. 6359 of October 25, 1933; and paragraph 2(d) of Executive Order No. 10289 of September 17, 1951, are hereby revoked.

SECTION 2. The revocation, in whole or in part, of such prior Executive orders relating to regulation on the acquisition of, holding of, or other transactions in gold shall not affect any act completed, or any right accruing or accrued, or any suit or proceeding finished or started in any civil or criminal cause prior to the revocation, but all such liabilities, penalties, and forfeitures under the Executive orders shall continue and may be enforced in the same manner as if the revocation had not been made.

This order shall become effective on December 31, 1974.

APPENDIX III

Chronology of Legal Documents Relating to the Devaluation of the U.S. Dollar

A. Presidential Proclamation No. 2072 of January 31, 1934 Reducing the Weight of the Gold Dollar

Whereas, by virtue of section 1 of the act of Congress approved March 14, 1900 (31 Stat. L. 45), the present weight of the gold dollar is fixed at twenty-five and eight-tenths grains of gold nine-tenths fine; and

Whereas, by section 43, title III of the act approved May 12, 1933 (Public No. 10, 73rd Cong.), as amended by section 12 of the Gold Reserve Act of 1934, it is provided in part as follows:

"Whenever the President finds, upon investigation, that (1) foreign commerce of the United States is adversely affected by reason of the depreciation in the value of the currency of any other government or governments in relation to the present standard value of gold, or (2) action under this section is necessary in order to regulate and maintain the parity of currency issues of the United States, or (3) an economic emergency requires an expansion of credit, or (4) an expansion of credit is necessary to secure by international agreement a stabilization at proper levels of the currencies of various governments, the President is authorized, in his discretion---

"(2) By proclamation to fix the weight of the gold dollar in grains nine-tenths fine and also to fix the weight of the silver dollar in grains nine-tenths fins at a definite fixed ratio in relation to the gold dollar at such amounts as he finds necessary from his investigation to stabilize domestic prices or to protect the foreign commerce against the adverse effect of depreciated foreign currencies, and to provide for the unlimited coiniage of such gold and silver at the ratio so fixed, or in case the Government of the United States enters into an agreement with any government or governments under the terms of which the ratio between the value of gold and other currency issued by the United States and by any such government or governments is established, the President may fix the weight of the gold dollar in accordance with the ratio so agreed upon, and such gold dollar, the weight of which is so fixed, shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity with this standard and it shall be the duty of the Secretary of the Treasury to maintain such parity, but in no event shall the weight of the gold dollar be fixed so as to reduce its present weight by more than 50 per centum. Nor shall the weight of the gold dollar be fixed in any event at more than 60 per centum of its present weight. The powers of the President specified in this paragraph shall be deemed to be separate, distinct, and continuing powers, and may be exercised by him, from time to time, severally or together, whenever and as the expressed objects of this section in his judgment may require; except that such powers shall expire two years after the date of enactment of the Gold Reserve Act of 1934, unless the President shall sooner declare the existing emergency ended, but the President may extend such period for not more than one additional year after such date by proclamation recognizing the continuance of such emergency"; and

Whereas, I find, upon investigation, that the foreign commerce of the United States is adversely affected by reason of the depreciation in the value of the currencies of other governments in relation to the present standard value of gold, and that an economic emergency requires an expansion of credit; and

Whereas, in my judgment, measures additional to those provided by subsection (a) of said section 43 are required to meet the purposes of such section; and

Whereas, I find, from my investigation, that, in order to stabilize domestic prices and to protect the foreign commerce against the adverse effect of depreciated foreign currencies, it is necessary to fix the weight of the gold dollar at 15 5/21 grains nine-tenths fine,

Now, therefore, be it known that I, Franklin D. Roosevelt, President of the United States, by virtue of the authority vested in me by section 43, title III of said act of May 12, 1933, as amended, and by virtue of all other authority vested in me, do hereby proclaim, order, direct, declare and fix the weight of the gold dollar to be 15 5/21 grains nine-tenths fine, from and after the date and hour of this proclamation. The weight of the silver dollar is not altered or affected in any manner by reason of this proclamation.

[**Editor’s Note**: At this weight of 15 5/21 grains nine-tenths fine, the statutory value of gold became $35 per fine ounce. This document can be found in volume 3 of *The Public Papers and Addresses of Franklin D. Roosevelt* at 67-70.]

B. Closing of the Gold Window by President Richard Nixon on August 15, 1971

[Excerpt from the August 15, 1971 “Address to the Nation Outlining a New Economic Policy: ‘The Challenge of Peace’” found in *The Public Papers of the Presidents of the United States: Richard M. Nixon 1971* at 886-890.]

The time has come for a new economic policy for the United States. Its targets are unemployment, inflation, and international speculation. . . .I am today ordering a freeze on all prices and wages throughout the United States for a period of 90 days [Ed. Note: Executive Order 11615]. In addition, I call upon corporations to extend the wage-price freeze to all dividends. I have today appointed a Cost of Living Council within the Government [Ed. Note: Executive Order 11615]. . .

The third indispensable element in building the new prosperity is closely related to creating new jobs and halting inflation. We must protect the position of the American dollar as a pillar of monetary stability around the world. In the past 7 years, there has been an average of one international monetary crisis every year. Now who gains from these crises? Not the workingman; not the investor; not the real producers of wealth. The gainers are the international money speculators. Because they thrive on crises, they help to create them.

In recent weeks, the speculators have been waging an all-out war on the American dollar. The strength of a nation’s currency is based on the strength of that nation’s economy--and the American economy is by far the strongest in the world. Accordingly, I have directed the Secretary of the Treasury to take the action necessary to defend the dollar against the speculators. I have directed Secretary Connally to suspend temporarily the convertibility of the dollar into gold or other reserve assets, except in amounts and conditions determined to be in the interest of monetary stability and in the best interests of the United States.

[**Editor’s Note**: In the course of research for this memorandum, much information was discovered which is important for understanding the events leading up to President Nixon’s decision to close the gold window. For example, on pages 40-46 of the *1968 Annual Report of the Secretary of the Treasury*, it states that in March of 1968 massive speculative buying of gold in London was draining official reserves which forced the dissolution of the London Gold Pool and the subsequent creation of a two-tiered gold system. This two-tiered system allowed the private commodity price of gold to fluctuate without official intervention while the official price and the role of monetary gold in transactions between countries remained unchanged. This is just one example of additional information that could be discussed. Unfortunately, any further discussion beyond this reference remains outside the scope of this memorandum.]

C. Modification in the Par Value of the Dollar, Raising the Gold Price to $38/ounce

[Public Law 92-268, 92nd Congress, S. 3160, March 31, 1972]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the “Par Value Modification Act”.

Sec. 2. 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 section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

Sec. 3 The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of the United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Sec. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

[**Editor's Note**: In the *1972 Annual Report of the Secretary of the Treasury*, page 382, some background information regarding the proposed modification of the par value of the dollar is given. We quote: "The Adminis- tration has proposed legislation authorizing and directing the Secretary of the Treasury to take the steps necessary to modify the par value of the dollar in the International Monetary Fund, by an amount corresponding to an increase of 8.57 percent, to $38 per fine troy ounce, in the official value of gold, as agreed provisionally in the Smithsonian agreement of the Group of Ten on December 18, 1971. (This modification is equivalent to a reduction of approximately 7.89 percent in the value of the dollar stated in terms of grams of gold per dollar, from .888671 grams to .818513 grams.) The bill would also provide for maintenance of the value of U.S. subscriptions to international financial institutions."

"This report describes the Smithsonian agreement, the status of negotiations on related issues, and the increases in U.S. assets and liabilities which will result from the change in the dollar's par value . . . The Smithsonian agreement of the Group of Ten followed a period of international monetary adjustment, involving a generalized system of floating (but not freely floating) exchange rates, during 1971. The agreement consisted of a series of interrelated measures designed to help resolve balance of payments problems, to restore more settled conditions to the Exchange markets, and to provide a framework from which longer term reform could evolve."]

[**Editor's Note**: In the *1972 Annual Report of the Secretary of the Treasury*, page 394, a brief overview of the U.S. government's position favoring devaluation is given. We quote: "The official dollar price of gold was fixed at $35 per ounce by Executive Order in 1934. From that date until August 15, 1971, the United States has applied this official price in monetary transactions with foreign monetary authorities. This convertibility of the dollar into gold has since 1945 provided the link between currencies and gold for the world as a whole, as other currencies were convertible into dollars rather than into gold. This link to gold was suspended on August 15, 1971. U.S. reserves had been shrinking for many years, while other countries accumulated dollar claims on the United States which they treated as official reserves. Gold came to represent less than two-fifths of world reserves with dollars as the major growing component of world reserves. The strain on the dwindling U.S. reserves in August threatened to become unmanageable, draining our remaining reserve holdings to no constructive purpose. The suspension of convertibility halted this reserve outflow, and set the stage for a thoroughgoing and overdue reappraisal of some aspects of the international monetary system."

[**Editor's Note:** In the book, *The Memoirs of Richard Nixon*, President Nixon remarked on page 518 about how an unexpected development forced him to suspend the convertibility of dollars into gold. "In the second week of August [1971] the British ambassador appeared at the Treasury Department to ask that $3 billion be converted into gold. Whether we honored or denied this request, the consequences of our action would be fraught with danger: if we gave the British the gold they wanted, then other countries might rush to get theirs. If we refused, then that would be an admission of our concern that we could not meet every potential demand for conversion into gold."]

D. Modification in the Par Value of the Dollar, Raising the Gold Price to $42.22/ounce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 2 of the Par Value Modification Act (Public Law 92-268) is amended by striking the words "one thirty-eighth of a fine troy ounce of gold" and inserting in lieu thereof the following: "0.828948 Special Drawing Right or, the equivalent in terms of gold, of $1 equals 0.023684 of a fine troy ounce of gold".

[**Editor's Note**: In the *1973 Annual Report of the Secretary of the Treasury*, page 414, an explanation of the effect of modifying the par value of the dollar has on the gold price is given. We quote: "The administration has proposed legislation authorizing and directing the Secretary of the Treasury to take the necessary steps to modify the par value of the dollar in the International Monetary Fund, by an amount corresponding to an increase of 11.11 percent in the value of one special drawing right in the IMF, or, in terms of gold, of 11.11 percent in the official value of an ounce of gold. This modification is equivalent to a reduction of 10 percent in the value of the dollar stated in terms of special drawing rights per dollar, from 0.921053 SDR to 0.828948 SDR, or to the equivalent in terms of gold of one dollar equals 0.023684 fine troy ounces of gold. This corresponds to a value of $42.22 per fine troy ounce of gold."

On page 415, the *Report* states the reason which led the U.S. to modify the par value of the dollar. Again we quote: "Following the Smithsonian realignment in December 1971, there was a gradual return to a calmer situation in the exchange markets. However, this period of relative tranquility was punctuated in the middle of 1972 by speculation directed against the pound sterling. As a result of this pressure, the pound sterling was allowed to float and the market rate depreciated moderately below the central value fixed under the Smithsonian arrangement. During this period in the middle of the year nearly one-half of the overall 1972 deficit of about $10 billion in our official reserve transactions account took place. Following this period of disruption in the markets, more orderly conditions were again restored."]

E. I.R.S. Proposed Reporting Requirements for Gold Bullion Sales (1984)

Information Return of Brokers

[Note: This document can be found at 49 *Federal Register* 646-648 (1984), 26 CFR Part 1, I.R.C. Section 6045-1 (1954).]

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6045 of the Internal Revenue Code of 1954, relating to information returns of brokers. These proposed amendments clarify information reporting requirements for brokers effecting sales (including short sales) of commodities. The amendments are to be issued under the authority of sections 6045 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 747; 26 U.S.C. 6045, 7805).

The current regulations under section 6045 generally require brokers to make returns of information on sales (including short sales) of commodities effected for customers . . . The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. . . .

Section 1.6045-1 Returns of information of brokers and barter exchanges.

(a) *Meaning of terms.*

(5)(ii) The term "commodity" does not include---

(D) A form of tangible personal property, or an interest therein, gross proceeds from the sale of which exceed by more than 15 percent the value on the date of sale of the underlying personal property determined, at the election of the broker, by either exact valuation or approximate valuation. . . .

(iv) For purposes of paragraphs (a)(5)(ii)(E) and (iii) of this section, "type of tangible personal property" means any tangible personal property described in paragraph (a)(5)(i)(A), (B), or (C) of this section and any other tangible personal property that cannot be commercially reduced into two or more elements.

(b) Examples.

Example (9). If the gross proceeds from the sale of a gold coin (such as a Krugerrand, Maple Leaf, 50 Peso coin, or 100 Crown coin) do not exceed by more than 15 percent the bullion value of the gold in the coin, the coin is a commodity under paragraph (a)(5)(i)(D) of this section and is not excluded by paragraph (a)(5)(ii)(D) of this section.

Example (10). U.S. silver dimes, quarters, and half dollars minted before 1965 are personal property deliverable in satisfaction of a regulated futures contract approved by the Commodity Futures Trading Commission. The coins are a commodity under paragraph (a)(5)(i)(A) of this section. If, however, the gross proceeds from the sale of an individual coin exceed by more than 15 percent the bullion value of the silver in the coin, the coin is not a commodity under paragraph (a)(5)(ii)(D) of this section. . . .

Example (11). If the gross proceeds from the sale of a U.S. silver dollar minted before 1970 do not exceed by more than 15 percent the bullion value of the silver in the coin, the coin is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded by paragraph (a)(5)(ii)(D) of this section.

APPENDIX IV

Chronology of Major Actions with Respect to Gold Ownership from October 6, 1917 to January 5, 1984.

(Holzer is Professor of Law at Brooklyn Law School, where he teaches constitutional law, administrative law, and other courses. His practice is limited to appeals and constitutional litigation. Professor Holzer has lectured widely on a variety of legal and law-related topics, and his articles have appeared in newspapers, popular and professional magazines, and academic journals. He is the author *The Gold Clause* and *Government's Money Monopoly*.)

The following is reprinted from “How Americans Lost Their Right To Own Gold And Became Criminals in the Process” by Henry Mark Holzer with permission of the Committee for Monetary Research and Education, Inc., 10004 Greenwood Court, Charlotte, North Carolina 28215.

1. October 6, 1917: Enactment of Trading with the Enemy Act; President receives power to regulate and/or prohibit transactions in gold.

2. September 24, 1918: Amendment of Trading with the Enemy Act: President receives power to prohibit hoarding of gold.

3. March 5, 1933: Presidential Proclamation No. 2038; convenes Congress on March 9, 1933.

4. March 6, 1933: Presidential Proclamation No. 2039; bank holiday declared until March 9, 1933.

5. March 9, 1933: Presidential message to Congress (H.R. Doc. No. 1); requests passage of H.R. 1491, emergency banking legislation.

6. March 9, 1933: Enactment of Emergency Banking Act; approves bank holiday; delegates to President power to regulate and/or prohibit transactions in gold in time of war, or during any other national emergency declared by him; delegates to Secretary of the Treasury power to requisition gold.

7. March 9, 1933: Presidential Proclamation No. 2040; continues bank holiday.

8. March 10, 1933: Presidential Executive Order No. 6073; authorizes Secretary of the Treasury to decide which banks can reopen; prohibits export of gold, except as allowed by Secretary of the Treasury.

9. March 18, 1933: Presidential Executive Order No. 6080; authorizes appointment of bank conservators, if necessary to protect bank assets.

10. April 5, 1933: Presidential Executive Order No. 6102; owners of gold required to turn it over to the Government in exchange for paper currency.

11. April 19, 1933: Secretary of the Treasury advises that until further notice no licenses will be granted for export of gold.

12. April 20, 1933: Presidential Executive Order No. 6111; prohibits earmarking for foreign account and the export of gold coin, gold bullion, or gold certificates, but authorizes Secretary of the Treasury to issue licenses permitting such export under certain conditions.

13. April 29, 1933: Secretary of the Treasury issues regulations; persons needing gold for proper transactions not involving hoarding can apply for licenses; day before Acting Secretary of the Treasury announced no such licenses would be granted unless applicant had first surrendered his gold.

14. June 5, 1933: Joint Resolution of Congress declares gold clause contracts violate public policy and thus are void; action later upheld by Supreme Court in Norman v. Baltimore & O.R. Co., 294 U.S. 240 (1935).

15. August 28, 1933: Presidential Executive Order No. 6260; declares national emergency, revokes Executive Orders of April 5 and 20, 1933; requires filing of information returns; with certain minor exceptions, requires delivery of all domestically held private gold to Federal Reserve Banks; authorizes Secretary of the Treasury to license acquisition of gold: imposes stiff criminal penalties for violation of government gold policies.

16. August 29, 1933: Presidential Executive Order No. 6261; forces domestic gold producers to sell their output to Secretary of the Treasury, at price to be set by latter, for resale to those with gold licenses and/or foreign purchasers.

17. September 12, 1933: Secretary of the Treasury issues comprehensive regulations under Executive Orders of August 28 and 29, 1933.

18. October 25, 1933: Presidential Executive Order No. 6359; amends (in minor way) and revokes, respectively, Executive orders of August 28 and 29, 1933: Treasury Department, to conform amends its regulations of September 12, 1933 accordingly.

19. November 16, 1933: United States District Court in New York upholds passage of Emergency Banking Act of March 9, 1933, its delegation of power to the President, and Section 3 of his Executive Order of August 28, 1933 requiring returns to be filed; invalidated is Roosevelt's requisition of gold under the August 28, 1933 Executive Order, which the court holds should have been made by the Secretary of the Treasury. Campbell v. Chase Nat'l Bank, 5 F. Supp. 156 (S.D.N.Y. 1933).

20. December 28, 1933: Secretary of the Treasury promulgates order requisitioning gold, setting deadline of midnight on January 1, 1934.

21. January 11, 1934: Secretary of the Treasury amends in minor respect a rare coin exception made in his December 28, 1933 order.

22. January 12, 1934: Presidential Executive Order No. 6556; amends in minor respect the Executive Order of August 28, 1933.

23. January 15, 1934: Presidential Executive Order No. 6560; makes minor changes regarding transactions in foreign exchange, transfers of credit, and the export of coins and

currency.

24. January 15, 1934: Secretary of the Treasury directs mints and assay offices to receive gold newly mined in the United States on consignment for the Federal Reserve Bank of New York; also supplements his order of December 28, 1933 by extending until midnight on January 17, 1934, the deadline for the surrender of gold in compliance with his order of December 28, 1933.

25. January 15, 1934: Presidential message to Congress; requests passage of additional gold legislation, vesting in the Government possession and title to all monetary gold in America.

26. January 17, 1934: Secretary of the Treasury instructs the Treasurer, mints, assay offices, and fiscal agents of the United States regarding gold not delivered to the Government before the midnight deadline.

27. January 17, 1934: Senate Banking and Currency Committee makes public the opinion of Attorney General Homer Cummings to the effect that the proposed new gold legislation is constitutional.

28. January 30, 1934: Gold Reserve Act approved: transfers to Government all gold of Federal Reserve System; gold coin ordered withdrawn from circulation and formed into bars; gold in any form to be acquired, transported, melted or treated, imported, exported, or earmarked or held in custody for foreign or domestic account only to the extent allowed by Treasury regulations issued under Act; Secretary of the Treasury issues provisional regulations.

29. January 31, 1934: Provisional Treasury regulations amended with regard to purchase and sale of gold by United States mints; also in regard to collectors of rare coins.

30. July 20, 1962: by Executive Order No. 11037, President John F. Kennedy prohibits Americans from owning gold outside the continental limits of the United States.

[The following updated chronology which discusses the criminalization of gold ownership in 1933 to its re-legalization in 1974 has been supplied by George Cooper. It is meant to fill in and supplement those areas which the original chronology overlooked.]

31. January 31, 1934: Proclamation No. 2072 of Franklin D. Roosevelt which reduced the weight of the gold dollar from twenty-five and eight-tenths grains of gold nine-tenths fine to fifteen and five twenty-firsts grains nine-tenths fine. In the process, the statutory value of gold was raised from $20.67 per fine ounce to $35 per fine ounce.

32. July 14, 1954: Treasury Department regulations holding that all gold coins made prior to April 5, 1933 are of recognized special value to collectors of rare and unusual coin within the meaning of Sec. 54.20 of the Gold Regulations. Treasury Department now recognizes pre-1933 European gold coins as well as other pre-1933 coins from other countries.

33. January 14, 1961: by Executive Order No. 10905, President Dwight D. Eisenhower prohibits U.S. citizens from retaining any interest, legal or equitable, in any gold with the exception of gold coin having a recognized special value to collectors of rare and unusual coin. The

Secretary of the Treasury is authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside the borders.

34. March 16-17, 1968: Meeting of the Governors of the Central Banks represented in the London Gold Pool along with the Chairman of the Federal Reserve Board to adopt a two-tiered gold system. This two-tiered system allows the private commodity price of gold to fluctuate without official intervention while the official price and role of monetary gold remains unchanged in transactions between monetary authorities.

35. March 18, 1968: President Johnson signs Public Law 90-269 which allows the U.S. government to eliminate the remaining gold cover requirement for Federal Reserve notes and U.S. notes and Treasury notes of 1890 due to a rising demand for U.S. currency of about $2 billion per year. This fact coupled with strong speculative pressure in the London gold market leads Treasury officials to conclude that the U.S. stock of “free gold” would soon be exhausted.

36. April 22, 1969: Treasury Department amends Sec. 54.20 of the Gold Regulations and per mits the importation of gold coins minted prior to 1934 without a license. This amendment removes inconsistent application of the law.

37. August 15, 1971: by Executive Order No. 11615, President Richard M. Nixon instructs the Secretary of the Treasury to suspend convertibility of U.S. Dollars into gold bullion, thereby effectively closing the international gold window and setting in motion the breakdown of the Bretton Woods currency agreement.

38. March 31, 1972: by Public Law 92-268 (92nd Congress) the “Par Value Modification Act” is introduced whereby the par value of the dollar in relation to gold is changed to one thirty-eighth of a fine troy ounce of gold. The result is a devaluation of the U.S. dollar by 8.57% which has the effect of raising the value of gold to $38 per fine troy ounce.

39. February 19, 1973 a second amendment to the “Par Value Modification Act”is undertaken which results in a devaluation of the U.S. dollar by 11.11%. In terms of gold, one dollar equals 0.023684 fine troy ounces which corresponds to a value of $42.22 per fine troy ounce of gold.

40. August 14, 1974: by Public Law 93-373 it becomes legal as of December 31, 1974 for Americans to own all forms of gold once again.

41. December 31, 1974: Executive Order No. 11825 signed by President Gerald H. Ford revokes all prior executive orders beginning with No. 6260 on August 28, 1933 up to and including No. 11037 on July 20, 1962.

42. January 5, 1984: I.R.S. proposes amendments to reporting requirements of I.R.C. Sec. 6045 to include gold bullion sales from customers to brokers. The term “commodity” is defined to exclude items of tangible personal property if the gross proceeds from sale exceed by more than 15% its value as a commodity. Thus, gold brokers are not required to report to the I.R.S. on Form 1099 sales of gold coins from clients if the value of said coins exceed the underlying gold value by more than 15%.

APPENDIX V

How to Invest in Gold Coins

by Donald J. Hoppe (1970)

[The following is excerpted from Chapter 2 of Mr. Hoppe's book of the same title.]

THE PRIVATE CITIZEN AND GOLD TODAY

Despite the patently obvious evidence of recent years that Gresham's Law is still irresistibly in operation, the student of monetary history and crowd psychology may yet have some reservations about gold investing. Before deciding on gold coins as a safe and profitable investment, with the obvious advantages already mentioned, one may properly question the extent to which man's historic faith in the reliability of gold as a standard of value has been or will be affected by the thirty-four-year campaign of the Keynesian economists to escape from the restrictions and disciplines of gold-based money. (The question is especially pertinent because of the defection of so many so-called conservative economists and bankers to the viewpoints of the New Economics.)

After all, we in what the French like to call the "Anglo-Saxon camp" have been told for a considerable time now, through our press and by the pronouncements of even some of our highest Treasury and banking officials, that gold, like the Deity in the eyes of some modern theologians, is dead; that the use of gold for monetary purposes or as a store of value is, in that already well worn cliché, a "barbarous relic." Furthermore, it is said that the sooner we are able to abandon it completely, the better it will be for us.

But perhaps the demise of gold as the center of the monetary universe has been reported, as was the death of Mark Twain, somewhat prematurely. Although the obituaries continue to be published, the world remains unconvinced. If gold is indeed dead, it has proven to be a rather lively ghost. The author's clipping files concerning monetary subjects indicate that more press copy on the subject of gold has been published during the last two years that at any time since the crisis years of 1933-34. Countless reports on the future of gold and the attendant opportunities for speculation it offers have also been prepared by private financial advisers and services (and sold at high prices) since the dying relic, the "echo of the past" has suddenly become a full-blown crisis. Some went so far as to declare that gold was America's number-one problem. But there is still little public agreement on whether the ancient idol will be finally and forever toppled from his throne or restored once more to past glory.

In the author's opinion, the decisive vote was given in 1967 and 1968, when repeated waves of gold speculation swept the gold markets of the world, shaking its very monetary foundations, breaking up the London gold pool and its fixed $35 per ounce gold price and forcing the devaluation of the British pound sterling. The most revealing part of these episodes was that they imposed an ignominious retreat on the neo-Keynesian money managers of the West. In being forced into a tightfisted defense of their stockpiles of monetary gold, the position of the money managers would have been ludicrous but for the tragic effects of the inflation that had already eroded the wealth and vitality of countless peoples.

Ironically, it was these practitioners of the New Economics who had insisted all along that gold was only a superstition, a vestige of a barbarous past, and that we would have been better off to dump it all into the sea. But now that it has apparently been found necessary, for the moment at least, for the United States and its partners in financial experiment to defend at all costs (that is, with whatever further sacrifices may be required of their citizens) what is left of their monetary gold stocks, it may be suggested (with tongue in cheek) that we dump our money managers into the sea instead.

However, it is obvious that the present show of defending gold by Britain and the United States, through various austerity programs, exchange controls, high taxes, etc., is a tactical expedient only. The ultimate goal remains the implementation of some new international paper-money scheme, an eventual total devaluation of the dollar, and the complete demonetization of gold. Therefore, stability in the price of gold and an end to the long-term inflation that has accompanied the ascendancy of the New Economics are nowhere in sight. Additional waves of gold speculation, gold-buying panics and recurrent gold crises are not only probable but inevitable.

What part the citizen of the United States and his British cousin have played in these events has been somewhat restricted, legally at least, by the actions of their respective governments. They have been prohibited by law and regulation from direct participation in the purchase, sale or ownership of gold in bullion or monetary form.

In most other civilized lands (and some that are not so civilized) the ownership of bar gold and gold in any other form is not only permitted but, as in the case of France and Switzerland, often tacitly encouraged. These enlightened countries believe that gold in the hands of private citizens is an aid to internal economic stability and complements rather that competes with the official reserves of their central banks. By allowing the free use of gold as a store of value, the other Western countries have eased somewhat the burden of inflation upon their citizens. Unfortunately, the insidious disease of inflation is, as a matter of record, chronic in every country that practices neo-Keynesian economics. But by permitting the private possession of gold in any form, France and Switzerland at least recognize that the least sophisticated and affluent of their citizens should have the right to defend themselves.

The only other major nation, besides the U.S. and Britain, that prohibits free commerce in gold by its inhabitants is the Soviet Union. Private holdings or transactions in the yellow metal are considered there to be "economic crimes”-- most serious offenses in a Marxist state. Those engaged in them are subject to the firing squad. (Yet is has been reliably reported that a flourishing black market in gold continues to exist in Russia and the other Marxist states.) Curiously enough, the writer finds that the parallel presented by the United States and the Soviet Union, regarding the private holding of gold as an infringement on a state monopoly and therefore a crime, is neither unbelievable nor incongruous. Perhaps the "big brother" philosophy of economics is rather easily recognized whatever its stage of development.

Worldwide, the record of the neo-Keynesian money mangers in the area of maintaining the purchasing power of their fiat currencies has been deplorable. But perhaps I am too harsh on the proponents of the New Economics; after all, monetary delinquency antedates Keynes by a considerable period; it is of course as old as money itself. The coin clippers and debasers caused as much ruin and suffering in ancient times as the paper-money inflationists have in the twentieth century.

But holding aside for a time further comments on the great questions concerning future trends of inflation and the coming rise in the price of gold, let us proceed directly to the problems and opportunities confronting people generally and citizens of the United States and Britain in particular who might wish to speculate on these possibilities, or who might want to invest in a gold-related activity as a hedge. Since possession of monetary gold (bullion) by citizens of the U.S. and Britain is unlawful, there remain only two (legal) avenues of gold investment open to them: the purchase of shares in gold-mining companies, and the collection of gold coins.

The gold coin was once a very vital part, at times the lifeblood, of the economic body. Today is not so. The lifeblood of the New Economics is credit. The coin of gold, the ancient king of money, was forced to abdicate in disgrace during the depths of the Great Depression and it has been banished from the realm ever since. But the gold coin still has a meaning, and sometimes a very profitable one, for those who have the eyes to see it.

The provisions of the Gold Reserve Act of 1934 and the Executive Orders and banking laws of 1933, which originally demonetized and confiscated all outstanding gold coin in the United States, prohibited the individual possession of gold bullion (or any other recognizable use of gold as a store of value). However, they made no prohibitions regarding the ownership of gold-mining stocks, and they also permitted the retention of gold coins of "recognizable numismatic value." Failure of the original legislation to define adequately what constituted recognizable numismatic value caused considerable confusion for some years, but in general, the parts of the gold regulations concerning numismatics were not rigidly enforced--at least not to the point of harassing of gold coins.

It is now obvious that considerable quantities of U.S. gold coin were never surrendered at the time of the original order. Some coin was withheld because it was in the possession of foreign citizens, banks, or governments, and some because its owners chose to defy their government because of what they considered to be an arbitrary and unjust confiscation. Considerable quantities of American gold coin also found residence in Canada. At any rate, choice uncirculated U.S. and foreign gold coins were generally available through coin dealers in the United States after 1934 and they sold at prices that from today's vantage point were fantastically cheap.

Unusually strong demand for the more common gold coins, strictly as a speculation on a possible rise in the price of gold or as a hedge against inflation, occurred from time to time, notably in 1946, 1957, and 1961, but in general, the market for the so-called common type of gold coins remained unexciting--until 1967. In the truly numismatic area, however, astute and knowledgeable collectors gradually reaped a tremendous reward for their patience. During the postwar years, gold coins of unusual scarcity or rare numismatic value enjoyed a spectacular and continuous rise in price.

In the forties and fifties, the U.S. Treasury held most of the world's gold bullion, and consequently, the attitude of the government toward gold-coin collectors was one of indifference, even though the legality of possessing so-called common-date coins was somewhat questionable, at least until 1954. Prior to that year, the Treasury held the opinion that it alone had the right to determine whether or not any gold coin was of numismatic value. Determinations were to be made on the merits of each individual coin presented to the Treasury for ruling.

The pre-1954 criterion for judging a coin minted before 1933 was whether or not the coin in question had possessed a recognized numismatic value on or before April 5, 1933. Gold coins minted after 1933 were to be judged on the basis of the number issued, the purpose for which they were issued, their condition, mint mark, historical significance and other numismatic factors. However, there appeared to be no great rush of collectors to the Treasury Building to have their coins checked.

It must be admitted, however, that the Treasury Department of that era did not rigidly or aggressively enforce a narrow and legalistic interpretation of the "numismatic value" provision of the Gold Reserve Act. Had it done so, American numismatics would have suffered severe and irreparable damage many fine gold coins which are now the prized possessions of American collectors would have been lost forever. "Numismatic value" is a term of varied and at times subtle meaning. Many regular-issue coins gradually become scarce or even rare, through natural attrition, while they are still technically part of the circulating medium, and these scarcity situations are invariably recognized at first only by the most astute and sophisticated collectors. By the time the numismatic value of such coins becomes common knowledge, it is usually well past the point where that value or the potential for numismatic value was actually acquired.

There is also the case of the unusually well struck or prooflike coin which was selected from a regular issue; certainly this type of coin has exceptional numismatic value even though the issue it was taken from was not particularly scarce. And how does one objectively judge the roll of uncirculated coins put away by the foresighted for the benefit of future generations of numismatists? And specimen coins retained because of their artistic merit or historical associations? Surely the final U.S. gold-coin series designed by Augustus St. Gaudens, one of America's most noted sculptors, would fall into this latter class. To have ruthlessly insisted on the surrender of all gold coins extant on or before April 5, 1933, that were still technically part of the circulating medium, and/or not obviously or generally recognized to be of unusual historic numismatic value, would have been catastrophic indeed, as far as numismatics is concerned.

But the Treasury officials of that day chose to be tolerant, if not amiable, and, except for preventing the importation of large numbers of post-1933 foreign gold coins, did little to disturb numismatic gold activity. Apparently, numismatists, collectors, and even hoarders were too few in number at that time to cause alarm on the Potomac. Whatever the reason, we can feel thankful that the Treasury authorities of the first quarter-century following the demise of gold coinage in the U.S. did not flail about with the typical bureaucratic myopia that has characterized their successors. In any case, the "common" U.S. gold coins (which, as we know now, are anything but common) and most pre-1933 foreign gold coins were allowed to be traded and collected more or less openly during the years prior to 1954.

In 1954, the Treasury Department recognized at last that the time had come to legitimize the numismatic gold market. Consequently, an amendment was made to the Gold regulations, to the effect that all gold coins minted prior to 1933 would subsequently be presumed to be rare and of recognized special value to collectors, without the necessity of further specific determinations by the Treasury. Coins minted after 1933 were still subject to specific Treasury Department rulings, which were to be based on the advice of the Curator of Numismatics of the United States National Museum. All U.S. gold coins and the vast majority of foreign gold coins were thus freed from the overhanging threat of confiscation, and a new era for American numismatics appeared to begin.

It might have been reasonable to expect after 1954 that further relaxation of the Treasury's Gold Regulations, particularly as they applied to numismatics, would be a natural development in time. But the subsequent course of American economic history ruled otherwise. By 1960, the underlying inflationary instability of the Western world had reached the point where the once seemingly unlimited gold reserves at Fort Knox had noticeably begun to shrink. This unfortunate (and, in my opinion, wholly avoidable) turn of events precluded any possibility of further liberalization of the gold rules, numismatic or other. Instead, in 1961, the Kennedy Administration saw the necessity of establishing within the Treasury Department the Office of Domestic Gold and Silver Operations (ODGSO) , in order to institute a more rigorous control over the import and export of gold and silver, the licensing of jewelers, goldsmiths and industrial users of gold, and import and sale of gold coins.

The most positive accomplishment of the new ODGSO was to reaffirm, as its own policy, the 1954 amendments to the Gold Regulations, which ruled that all gold coins minted prior to 1934 are rare and consequently of recognized numismatic value. For gold coins minted after 1933, the office required a separate ruling in each case and the issuance of a special permit for the importation or possession of each post-1933 coin approved. (Once an initial ruling on a particular coin was made, however, no further permits or applications were necessary to purchase or hold other coins of the same identity within the United States, although a license to import any post-1933 gold coin is still required, whether it has been previously approved or not.)

By some obscure and tenuous logic ODGSO also required (until 1969) a permit to import pre-1934 gold coins, even though the purchase or possession (or both) of such coins was unrestricted within the United States. I might add that the majority of applicants desiring to import pre-1933 gold coins were invariably refused.

The author once applied for a permit to import some pre-1933 Mexican gold coins offered by a Canadian dealer. The license was refused, even though the coins under consideration were the rarest of their series and selling for more than twice their intrinsic value, on the grounds that they were "not of exceptional numismatic value within the meaning of the Treasury Department Gold Regulations." In reply, I could only point out, politely (and in vain) , that the Treasury Department Gold regulations, which ODGSO was supposed to be administering, stated without qualification that all gold coins made prior to 1934 were to be considered of "recognized special value to collectors." The spectacle of federal regulatory agencies regulating themselves in a circle is at times wondrous to behold.

Fortunately, the 1954 amendments are now a well-established precedent, and they provided at least a basic protection for the numismatic gold collector. Furthermore, although it has required a change of administrations, ODGSO has finally come to recognize that some of its interpretations of the gold rules have been, in the words of its new director, "of dubious merit."

On April 22, 1969, the Gold Regulations of the U.S. Treasury Department were amended to correct the obvious and unreasonable inconsistency introduced by Executive Order 11037, issued July 20, 1962, which required, among other things, a permit from ODGSO for the importation of pre-1934 gold coins. The new director of ODGSO, Mr. Thomas Wolfe, appointed by the Nixon Administration, admitted candidly that "it really didn't make a lot of sense" for ODGSO to prohibit or confiscate a pre-1934 gold coin coming from abroad, when the collector could walk across the street and buy the same coin in the U.S. without restriction.

Therefore, the provisions requiring a license to import pre-1934 gold coins were eliminated.

Collectors and dealers in the U.S. are now free to import such coins, provided they are genuine, subject only to the usual customs regulations and import duties. Counterfeits or restrikes, however, are subject to confiscation, regardless of a pre-1934 date. The Gold Regulations were further amended to require import licenses only for gold coins struck from 1934 through 1959. The granting of such licenses is to be subject to the usual criterion of judgement. No gold coins struck after 1959 will be admitted, except for those issues already granted exemption by ODGSO prior to April 30, 1969.

The 1969 modifications of the Gold Regulations bring a welcome breath of fresh air into the bureaucratic smog that has shrouded the rulings and statements of the Treasury and ODGSO since 1961. However, one can only regret the arbitrary cut-off date of 1959, which automatically excludes such highly desirable numismatic treasures as the Canadian $20 centennial gold coin of 1967, and most of the post-1960 commemorative gold coins of Israel.

Fortunately, past history has demonstrated that common sense eventually triumphs, even in the Treasury; we can therefore continue to hope that the absolute 1960 cut-off ruling will also be re-considered one day.

By contrast, however, British gold collectors were apparently dealt a severe blow when in 1966 the Bank of England issued regulations requiring the registration of all coin collectors and limiting collectors to no more than four gold coins minted after 1837. But fortunately, as was the case with the original numismatic provisions of our own Gold Reserve Act of 1934, these rules were softened considerably in their administration. Although not specifically stated in the regulations, it has been made known that "collectors may possess two gold coins or sets of any one type or series, that is, two 1887 five-pound pieces, two 1902 two-pound pieces, two 1937 proof sets, etc. -- only holders of large quantities of common-date sovereigns will be required to surrender them.

The citizen of the United States, if interested in acquiring a speculative or investment position in gold, is then limited to gold-mining stocks or gold coins. The citizen of Great Britain has the same options except that he is much more limited in the area of coins. The natives of Canada, France, Switzerland, Germany, South Africa, and innumerable other areas of the world, presumably not as far along on the path of enlightenment as we, are free to do as they please regarding gold.

There has been some talk that once gold was successfully demonetized by the U.S., the free holding of gold by its citizens would be permitted. If this is ever tried, it will be as a last desperate bluff to prove that the dollar is better than gold. But like our former policies of trying to hold down the international price of gold by selling it freely through the London "gold pool" and trying to hold down the price of silver through massive Treasury sales, it will be just another phenomenal failure. By its demented economic and fiscal policies of the last three decades, the U.S. government has forfeited all confidence in its ability to maintain the value of its currency. If U.S. citizens were now granted the right to cash in some of their paper dollars for gold, what is left of our national gold reserve would disappear in a month.

In Russia and the Marxist countries of Eastern Europe, there are of course no gold-mining stocks. If it were not for the Communist ideology, however, no doubt there would be; the Soviet Union is thought to be the third largest producer of gold in the world (after South Africa and Canada) , although the actual production figures are a closely guarded state secret. It is also reported that the Russians pay production costs equivalent to $100 an ounce for their gold. Despite Lenin's boast that gold would one day pave the public rest rooms in the worker's paradise, the Russians seem to have found other uses for it --like buying vitally needed equipment and raw materials in Europe, Africa, and Asia.

But as we have said, private trafficking in gold bullion in the Soviet Union is considered (as in the United States) a most serious crime. The state mints occasionally issue gold commemorative coins and medals, and sometimes restrikes of older gold coins. We can assume they are sold on a strict one-to-a-customer basis at home, although some of these restrikes have been widely exported to the West (and smuggled into the United States) for profitable sale. However, whether a tovarich can acquire a collection of gold coins without arousing the suspicion that he is surreptitiously planning an "economic crime" I do not know, but I imagine the mental hazards are discouraging.

The general worldwide availability and popularity of gold coins as an investment and speculative medium, and the rather intense activity of recent months call for diligent, thorough and hopefully objective investigations in the merits, hazards, techniques and problems involved in the purchase and collection of gold coins. That is the main purpose of this volume. It is hoped that it will also serve an auxiliary purpose by revealing something of the extent of monetary deterioration in the West and by showing the absolute necessity, as well as the advantages, of finding alternative stores of value to rapidly depreciating paper currency.

[End]

Appendix VI

Commonly Traded Pre-1933 Gold Coins

British Sovereign (Kings)
Net Gold Weight .2354 ounces
Minted 1902-1925

British Sovereign (Queens)
Net Gold Weight .2354 ounces
Minted 1887-1901

French Rooster
Net Gold Weight .1867 ounces
Minted 1906-1914

French Angel
Net Gold Weight .1867 ounces
Minted 1870-1900

Belgian 20 Franc
Net Gold Weight .1867 ounces
Minted 1807-1936

Swiss 20 Franc (Helvetia)
Net Gold Weight .1867 ounces
Minted 1896-1935

Swiss 20 Franc (Confederatio)
Net Gold Weight .1867 ounces
Minted 1883-1896

Argentina (Argentino)
Net Gold Weight .2334 ounces
Minted 1881-1896

Uruguay 5 Peso
Net Gold Weight .2501 ounces
Minted 1930

Dutch Guilder
Net Gold Weight .1947 ounces
Minted 1911-1933

German 20 Mark
Net Gold Weight .2304 ounces
Minted 1888-1913

U.S. $20 St. Gaudens
Net Gold Weight .9675 ounces
Minted 1907-1933

U.S. $20 Liberty
Net Gold Weight .9675 ounces
Minted 1877-1907

U.S. $10 Indian
Net Gold Weight .48375 ounces
Minted 1907-1933

U.S. $10 Liberty
Net Gold Weight .48375 ounces
Minted 1877-1907

SELECTED BIBLIOGRAPHY

1. *The Public Papers and Addresses of Franklin D. Roosevelt,vol. 2:The Year of Crisis 1933* (New York: Random House, 1938).

2. *The Public Papers and Addresses of Franklin D. Roosevelt, vol. 3: The Advance of Recovery and Reform 1934* (New York: Random House, 1938).

3. Hoover, Herbert. *The Memoirs of Herbert Hoover: The Great Depression 1929-1941, vol. 3* (New York: Macmillan Company, 1952).

4. *The Public Papers of the Presidents of the United States: Richard Nixon 1971* (Washington: United States Government Printing Office, 1972).

5. Nixon, Richard M. *The Memoirs of Richard Nixon* (New York: Grosset & Dunlap, 1978).

6. Pick, Dr. Franz. *The Triumph of Gold* (Bethel, CT: The Institute for the Preservation of Wealth, Inc., 1986).

7. Hayek, Friedrich A. *The Road to Serfdom* (Chicago: The University of Chicago Press, 1944).

8. Rothbard, Murray N. *The Case Against the Fed* (Auburn: Ludwig von Mises Institute, 1994).

9. Holzer, Henry Mark. *How Americans Lost Their Right to Own Gold and Became Criminals in the Process* (Charlotte: Committee for Monetary Research and Education, Inc., 1981).

10. Todd, Dr. Walker F. *From Constitutional Republic to Corporate State: The Federal Reserve Board, 1931-34* (Charlotte: Committee for Monetary Research and Education, Inc., 1995).

11. Doyle, Donald W. Jr. *Gold Confiscation: Why It Can Happen Again* (Metarie, LA: Adam Smith Publishing, 1993).

12. Hoppe, Donald J. *How to Invest in Gold Coins* (New Rochelle: Arlington House, 1970).

13. Solomon, Neil S. and Headley, Linda D. “State Attempts to Tax Sales of Gold Coin and Bullion in the United States: The Constitutional Implications,” *5 Boston College International & Comparative Law Review* 287 (1982).

14. Jackman, Michael (editor). *The Macmillan Book of Business and Economic Quotations* (New York: Macmillan Publishing Company, 1984). Hitler’s quotation can also be found online under the title “As Good As Gold, Said the Sages of Old” at http://www.bullion.org.za/bulza/educatn/goldsay.htm.

15. Friedman, Milton & Schwartz, Anna Jacobson. *A Monetary History of the United States, 1867-1960* (Princeton: Princeton University Press, 1963).

16. Fekete, Antal E. *Resumption of Gold Convertibility of the U.S. Currency* (Charlotte: Committee for Monetary Research and Education, Inc., 1984).

17. *Annual Report of the Secretary of the Treasury on the State of the Finances for Fiscal Year Ended June 30, 1934* (Washington: U. S. Government Printing Office, 1935).

18. *Annual Report of the Secretary of the Treasury on the State of the Finances for Fiscal Year Ended June 30, 1968* (Washington: U. S. Government Printing Office, 1969).

19. *Annual Report of the Secretary of the Treasury on the State of the Finances for Fiscal Year Ended June 30, 1969* (Washington: U.S. Government Printing Office, 1970).

20. *Annual Report of the Secretary of the Treasury on the State of the Finances for Fiscal Year Ended June 30, 1972* (Washington: U.S. Government Printing Office, 1972).

21. *Annual Report of the Secretary of the Treasury on the State of the Finances for Fiscal Year Ended June 30, 1973* (Washington: U.S. Government Printing Office, 1973).

22. U.S. Constitution, Fifth Amendment.

23. "The Trading With the Enemy Act," *U. S. Code Services*, Title 12, Section 95a (1994).

24. "Federal Reserve System," *U.S. Code Service*s, Title 12, Section 248 (1994).

25. "Money and Finance: Treasury," *Federal Register* 19 (14 July 1954), pp. 4309-4313.

26. "Gold Regulations," *Code of Federal Regulations* Title 31, Part 54 (1954).

27. Executive Order 10905: "Amendment of Executive Order No. 6260 of August 28, 1933, As Amended," *Federal Register* 26 (16 January 1961), p. 321.

28. Executive Order 11037: "Amendment of Section 12 of Executive Order No. 6260 of August 28, 1933, As Amended," *Federal Register* 27 (24 July 1962), p. 6967.

29. "Gold Regulations," *Code of Federal Regulations* Title 31, Part 54 (1969).

30. Executive Order 11615 (15 August 1971): "Providing for Stabilization of Prices, Rents, Wages, and Salaries," *Code of Federal Regulations* Title 3, 1971-1975 Compilation at 602-605.

31. "An Act to provide for increased participation by the United States in the International Development Association and to permit United States citizens to purchase, hold, sell or otherwise deal with gold in the United States or abroad" (Public Law 93-373, 14 August 1974), 88 *United States Statutes at Large* 445 (1974).

32. Executive Order 11825: Revocation of Executive orders pertaining to the regulation of the acquisition of, holding of, or other transactions in gold," *Code of Federal Regulations* Title 3, 1971-1975 Compilation at 929.

33. “Information Returns of Brokers,” *Federal Register* 49:3 (5 January 1984) at 646-648.

34. “Returns of information of brokers and barter exchanges,” *Code of Federal Regulations* Title 26, Part 1 (I.R.C. Section 6045-1) (1999).

George R. Cooper, J.D. has long been an advocate of precious metals ownership. He did his undergraduate studies at Albert-Ludwigs Universitaet in Freiburg, Germany and also at the Unversity of Chicago where he graduated with honors. He is an attorney who studied law at Exeter University in England and at the University of Denver. He is listed in *Who's Who in the West.* Presently, Mr. Cooper is an Account Executive with Centennial Precious Metals and acts as Assistant Editor to the monthly newsletter, *News & Views: Forecasts, Commentary & Analysis on the Economy and Precious Metals.*

Michael J. Kosares has more than 27 years of experience in the precious metals business as the proprietor of Centennial Precious Metals, Inc. He is the author of the widely read book on gold ownership entitled *The ABCs of Gold Investing: Protecting Your Wealth Through Private Gold Ownership* as well the editor of *In the Footsteps of Giants: The Inside Story on the Gold-for-Oil Deal That Could Rock the World's Financial Centers.* Mr. Kosares edits the monthly newsletter *News & Views: Forecasts, Commentary & Analysis on the Economy and Precious Metals*. In addition, he is the proprietor of the USAGOLD website where his Daily Market Report appears to guide investors.