# The American Crisis: To Free A Lender-Owned Nation

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*The rich ruleth over the poor, and the borrower is servant to the lender.* [Proverbs, 22:7]



## BRING BACK THE GREENBACK TRUE!

This article explains a First Amendment "Greenbacker" lawsuit for declaratory relief that I filed in federal court in San Francisco on December 28, 2011: Johnson v. Department of the Treasury of the United States, et al. (CV 11-6684). The complaint is included below, as an Appendix. Besides repairing my right to petition for new issues of *United States* notes (versus Federal Reserve notes), the suit is intended to awaken the public to the fact that the present dollar bill is certainly not a true United States note. It is a privately issued banknote.

The litigation raises two important issues:

- *As a matter of law*, it pits the right to petition against official government misrepresentation of categorical and financial facts.
- *As a matter of fact*, it alleges intentional suppression of the benefits that the government would automatically gain from replacing *Federal Reserve* notes in full or part with new issues of *United States* notes.

I ask the court for the following declaration:

The official Treasury statements

- THAT "United States Notes serve no function that is not already adequately served by Federal Reserve Notes," and
- THAT there is no benefit to the government when a $1 coin replaces a $1 note,
- ARE false and misleading matters of fact,
- ARE repugnant to the tax and money powers under U.S. Const. Art. 1, Sec. 8, and
- ARE in violation of plaintiffs's First Amendment right to petition for new United States notes.

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# I. Greenbacker Lawsuit Highlights 21-Year Treasury-Fed Coin-Swap Coverup

> Let the worthy men who toil up from poverty beware of surrendering a political power they already possess, and which if surrendered will surely be used to close the door of advancement against such as them, and to fix new disabilities and burdens upon them till all of liberty shall be lost. [President Lincoln, message to Congress, Dec. 3 1861]

## 1. Lincoln's Commonsense Veto of Irredeemable Banknotes *Applies Today*

> [I]n the middle of a civil war, [Abraham Lincoln] was also a leader who looked to the future, a Republican President who mobilized government to build the Transcontinental Railroad, launch the National Academy of Sciences, set up the first land grant colleges. [President Obama, "Jobs Act" message to Congress, Sep. 8 2011]

How could Lincoln have mobilized the government to such accomplishments? Surely most credit lies with the Congress? Lincoln enabled these gains not only by direct negotiations, but by a once celebrated veto of Congress.

In dispute is the following canned statement, which appears three times on the Treasury's web site: "United States Notes serve no function that is not already adequately served by Federal Reserve Notes." The Treasury imputes that United States notes became obsolete in 1971, when the nation abandoned the international gold standard, so that Federal Reserve notes became an irredeemable fiat currency.

Nothing could be further from the truth, nor could there be a plainer proof than Lincoln's June 23, 1862 veto of a bill to permit the circulation of bank notes for denominations below $5. *It was precisely because the banks had stopped redeeming their notes in gold that United States notes became the only sane option.*[1] The same situation prevails today. The Federal Reserve ("Fed") exercises no more than a veneer of control, and even that veneer is essentially private. One must not forget that the system was designed to operate beyond the Fed's control, so as to automatically satisfy the supposedly collaterized cash demands of its constituent banks.[2]

Lincoln's veto was on the obvious ground, *which applies today*. Fiat banknotes offer no advantage over fiat United States notes. Both extract a face-value flat-tax, called "seigniorage." United States notes take the tax for the government to spend, free of debt and interest. But banknotes give the tax to private banks, and must be borrowed by the United States, and ultimately repaid with interest[3] (emphasis added):

> This bill seems to contemplate no end which cannot be otherwise more certainly and beneficially attained….The object of the bill submitted to me, namely, that of providing a small note currency during the present suspension, can be fully accomplished by authorizing the issue, as part of any new emission of United States notes, made necessary by the circumstances of the country, of notes of a similar character, but of less denomination than five dollars. Such an issue would answer all the beneficial purposes of the bill; would save a considerable amount to the Treasury in interest; would greatly facilitate payments to soldiers and other creditors of small sums, and would furnish to the people a currency as safe as their own Government.
> [Lincoln's Message to Congress in favor of a National Currency, but vetoing irredeemable bank notes, June 23, 1862, from *History Of The Legal Tender Paper Money Issued During The Great Rebellion*, Senate Sub-Committee of Ways and Means, 1869, page 36.]

A united Congress promptly agreed, and in his December 1862 annual message to Congress, Lincoln reported that the issues of United States notes had saved "to the people immense sums in discounts and exchanges."

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[1] "Modern Money Theory" affirms that in 1971, because Fed notes became fiat money, essential differences between United States notes and Fed notes lost meaning. This strange idea would seem utterly swept away by Lincoln's simple common sense, and by Congress' sudden Treasury-on-empty blazing clarity. For a foundational paper see Soft Currency Economics, by Warren Mosler (1994).

[2] *A History of the Federal Reserve*, Vol. I, Meltzer (2003), page 742. ("1913…Act gave little scope for discretionary action.")

[3] Today, the Treasury recovers no more than 18.5% of these interest payments, from Federal Reserve profits.

The *History of the Legal Tender*, by Chairman Spaulding, begins with an overview that explains the original issues of "greenbacks," and which puts the entire question in proper perspective (pages 5-6):

> The United States, at the breaking out of the rebellion, had no national bank currency, and no gold or available means in the Treasury, or Sub-Treasury, to carry on the war for the Union, and consequently the means to prosecute the war had to be obtained upon the credit of the government, and by taxation. The fundable legal tender currency was the most available form of credit which the government could use in crushing the rebellion. It was at once a loan to the government without interest, and a national currency, which was so much needed for disbursement in small sums during the pressing exigencies of the war. It was indispensably necessary, and a most powerful instrumentality in saving the government and maintaining the national unity…[4]
>
> Having been requested to prepare a history of a measure of such transcendent importance as the legal tender act, and having in my possession a considerable number of documents, letters, and other materials relating to the subject, I have consented to put them into form, in order that the facts may be preserved for present and future reference, and which may be of some use in enabling the future historian to write a chapter on the financial history of the war. These facts will be presented in the form of a narrative of the circumstances and events, of the most grave and extraordinary character, occurring in rapid succession, which led finally to the issue of legal tender Treasury notes, and which were endowed with the attributes of money, so far forth as the Government had power under the Constitution and the pressure of the crisis to impart to a paper currency that high and most important attribute of sovereignty.

The Treasury's perfunctory dismissal of United States notes, as serving "no function that is not already adequately served by Federal Reserve Notes," is thus a deception of "transcendent importance."

Those not misinformed recognize the potentially saving relevance of Lincoln's fiat money policy today, as shown e.g., by the grassroots petition "End the Debt Crisis with debt-free United States Notes!" (see section II.2); by the April, 2009 open letter to President Obama from Ellen Brown, now President of the Public Banking Institute, urging the revival of Lincoln's greenbacks; and in depth by the article Lincoln's Populist Sovereignty: Public Finance Of, By, and For the People, 12 Chap. L. Rev. 561(2008-2009).

## 2. The Subprime Dollar

*Ha! Ha! Ha! How very funny! We don't even own our money!* [Greenbacker slogan]

Why is today's dollar bill like a mini-subprime mortgage? Because the "*UNITED STATES OF AMERICA*" caption on both sides, the picture of George Washington and signatures of the "Secretary of the Treasury" and "Treasurer of the United States" on the front, and the "Great Seal of the United States" set symmetrically in circular laces of green; all these, in conjunction with misleading language in the 1913 Federal Reserve Act, reflect a design to win the controlling votes of Greenbackers and satisfy a public by inducing belief that the act restored the Lincoln greenbacks; *whereas*, the smaller print "FEDERAL RESERVE NOTE" in the front top margin is controlling.[5]

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[4] The success of true greenbacks in saving the Union rendered ridiculous the prior ridicule of New York bankers, who overplayed their hand when they refused to buy the then losing government's bonds, except at a 36% discount. "Greenbackers" sought to reinstate these "true greenbacks" – i.e. *United States* notes, as opposed to conforming national banknotes. For the spirited debate, see: Greenback Cathecism, Pomoroy (1876); The Greenback Dollar: Its History and Worth, Benjamin Heath; (1877)**;** Treasonable Documents Circulated Among the "Greenback Clubs," Harvard Honest Men's League (1878); and, in a lighter vein, Treasured Notes, by the author.

[5] After a Greenback platform election victory in 1912, Greenbackers rejoiced at the restoration of Lincoln's greenbacks, by passage of the 1913 Federal Reserve Act. In due course, they learned better. Ironically, over half of the Senate debate addressed complaints of prejudicial impropriety, for want of a *joint* reconciliation proceeding. Happy Greenbackers squelched these complaints. Led by William Jennings Bryant, they had victoriously insisted on the one word that to them signified true *United States* notes. The notes must issue as "obligations of the United States." As applied, this has meant that the Treasury prints them on demand, while the United States backs them with its good faith and credit. The public pays for ultimate losses, the banks keep profits. That Greenbackers fought *for* this is sick. The

However, today's dollar bill not just another national banknote. The 1913 act institutionalized issuance as a private-bank monopoly, backed by the nation's credit. In 1971, when Nixon took the U.S. off the international gold standard, the Treasury had been redeeming notes in gold, not the Fed.[6] Now, as a fiat currency, the Fed garnishes the face-value of each note as a flat tax paid upon issuance. The Fed pays the Treasury only the printing cost, which is about seven cents per bill.

Each bill enters circulation the only way allowed under the law, by a bank lending it at interest to the public or to the government. Got it? Banks are *automatically* owed more dollars than there are dollars in circulation. One man's wealth is many men's poverty, as a matter of arithmetic certitude. Even if banks lent only actually issued banknotes, there would be fewer owned than owed. As it is, they purport to lend many more times the number of issued notes that they possess, per "fractional banking." Yet, assuming the moral high ground, banks of course demand full repayment, even when and where they have taken *back* money, absolutely reducing the amount locally available. Those not bankrupted, evicted, prosecuted, or blackballed for perforce coming up short, are merely fleeced. A chorus of baas follows the Fed. Beware of the sheep.

Federal Reserve notes are *owned* by the Federal Reserve. The Federal Reserve is *owned* by the owners of the banks that de facto govern the Fed's Board of Governors, which cannot govern the banks except in strictly limited circumstances, under a de facto "unitary free market" doctrine.[7]

United States notes are owned by the United States. The United States is owned by everyone.

What the Fed *owns*, everyone else *owes*. What the *United States* owns, *everyone* owns.

## 3. Same Old Normal

*"Hong-Kong-Cayman!" "King-Kong pay, man!"* [**Wall Street.** 'High-five' salutation.]

**Main Street.** You're struggling to pay off a credit card. A new credit deal sounds better. You ask your banker to tell you the short and long term costs and benefits of the change. After running the numbers, he tells you there's no point in changing, because you'll wind up with *exactly the same monthly payments*. You stay put… Your debt rises... You keep hearing good things about that new deal, and make your banker rerun the numbers. Same result… Twenty-one years, and what do you get? Another day older and deeper in debt, you discover that those *same* monthly payments would have paid off the debt ten years ago, and you'd have been *saving* money ever since!

Your banker failed to tell you that those "same" monthly payments included big principle reductions, and no fees, whereas the payments that he continued to recommend would grow your debt forever, with 81.5% consumed as fees! You confront him. He tells you that there's no *net* benefit to you if you change. It's not just monthly payments that are the same. The money you think to save by moving it, exactly equals what your present lender will lose. This loss will be charged to you, and so your net gain is zero. You'll always be in debt, that's a given, he says. But thanks to him, there's been no problem rolling over your growing debt. You're in no position to disagree now, are you?

However, he adds, enough is enough. He's been very patient with you. You need to start selling stuff, or you'll be hit with bankruptcy, foreclosure, unemployment, and undischargeable lifetime penalties. He tries to get you feeling guilty, for living above your means irresponsibly, for far too long. You frown. Your debt is a fact you can't deny. He confidently continues to bluff. "You don't get it, do you?" [Patient sigh, shaking head.] "What you call debt is accrued on *your own* credit card. Look! The account is in *your* name! *Yours*! It's all a wash!"

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understood mixed-currency promise was solemnized by the proud last words of Congress, anointing the Federal Reserve Act before sending it for President Wilson's immediate signature, on December 23, 1913, as follows:

A bill to terminate certain special privileges and advantages heretofore conferred by Congress , and not disturb any existing right in money and property, but in the future to favor the United States government, for the benefit of all the people equitably, to the same extent that Congress has by law in the past favored the members of the Money Trust exclusively.

Let's all agree to a prima facie fair 50-50 public-private money-base split, with carefully crafted tolerances/variances. In the collective and individual interests, who can deny that we need both forms of economic lifeblood, or that we need to quickly stop fractious disputes?

[6] *A History of the Federal Reserve*, Vol. I, Meltzer (2003), page 651.

[7] Aka "laissez-unfair" (purpose of constitution is free market, so free market implicit even in noncommercial clauses). [Satirical.]

You wonder, can he take you for such a *perfect* idiot? Well, yes. He already has, for many years, hasn't he? Come to think of it, he has your current account, and has lent 85% of it to someone in Hong Kong. Your hard earned wages. On the bother hand, every month your $5,000 savings account grows. He added $0.83 to it in interest payments last month. Aren't you grateful he's looking after your money for you?

* * * *

**Pennsylvania Avenue.** As memorialized in five GAO reports spanning 21 years,[8] estimating the net benefit to the government of replacing $1 dollar *Federal Reserve* notes with $1 *United States* coins, that's precisely how the Treasury and Fed have managed to stave off a national "greenback" teaching moment – the could-be tipping point, after which the nation's idiotic servility to the parasitic Monied interest[9] would become generally recognized.

The most obvious benefit is the accumulation of face-value $1 payments per coin, received upon delivery to the Fed. Presently counted as a reduction of senior debt held by the public, it is by far the largest fiscal benefit, over any time period. Yet the numerical amount is never counted or considered as a benefit. In the entire series of reports, the dollar amount is stated only twice, and only incidentally, even though the interest relief from that reduction of debt is the one benefit that *is* reported. *Just so, the 2011 report estimates a net $5.8 billion reduction in the debt held by the public, if that, after 30 years. This omits an early receipt of $13.75 billion, gradual receipts in excess of $30 billion, and 81.5% of the interest relief from each coin that replaces a note, which adds another $14.5 billion.*

You read the GAO rationale. "Fed profits are returned to the Treasury.[10] When a Fed $1 note is taken out of circulation, the Fed loses the very same interest from its profits, as the Treasury gains in interest relief from the coin. When the Fed's profits are returned to Treasury, the loss cancels out the gain. It's a wash! Everything is transacted in United States money and bonds. The Fed is part of the government. It doesn't matter that the Fed issues the currency, and the Treasury issues bonds. In the big picture, bonds are also a form of money, and in many ways the better form."

Can the Treasury and the Fed take the nation for such a *perfect* idiot? Well, yes. They already have, since 1913, haven't they? Come to think of it, the Fed's payment for each dollar coin is by computer credit to a checking account, backed up by only a small fraction of its value in real currency. The nation accepts a figment of a dollar, in exchange for a sparkling, authentic United States, presidential dollar coin. Yet the nation is grateful. It's the one little opportunity that it can't be denied, to make its own money.

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[8] Full suites of organizational entities contributed, as cited in each GAO report, and as shown by separate reports. See, e.g., the Senate Appropriations Committee's *Sacagawea Golden Dollar Program* S. HRG. 107–638 pages 53-55 (2002); and the Congressional Budget Office's Creating a New One-Dollar Coin, (1995), and Presidential $1 Coin Act of 2005 (2005). I make this point mindful of a December 6, 2011 letter from Fed chairman Bernanke to two congressional committees, including the sponsor of the 2011 GAO coin-swap report. As follows, Bernanke entoned that such comprehensive investigations surely had settled matters beyond *intelligent* doubt:

> "The articles recycle information that has been disclosed to the Congress and the American people in various forms for some time, and has been the subject of investigations, reviews, and reports by the Congress, the Government Accountability Office, the Congressional Oversight Panel, the Special Inspector General for the Troubled Asset Relief Program, and others. Moreover, the disclosure issues raised in these articles have already been addressed and settled, first by the Federal Reserve through a variety of reports and public postings, and then by Congress after a public debate."

But there is cause for doubt. The Fed's reasoning apparently includes the same "silly" rationale that, re the coin-swap question, assumes that reducing debt is not a benefit to the borrower! The Fed reportedly defines repayment as debt rolled over with interest paid -- which of course is *zero* repayment! See The $29 Trillion Bail-Out: A Resolution and Conclusion and my comment quoting this excerpt:

> "Also note how silly Hamilton's argument is: net lending is zero on loans that are rolled-over, hence we must logically conclude that the Fed actually lent nothing, did not bail-out financial institutions, and that Wall Street resolved its problems with no help from the Fed. He actually sent his critique to me and invited comment. I did write a short comment, along those lines…he did not publish it."

[9] This language is not intended *ad hominem*. It imputes civil standards of objective proof, per dictionary definitions of "idiotic," "servility," and "parasitic." The term "Monied interest" is as employed by the Framers. See footnote 14.

[10] 12 U.S.C. § 290 assigns "the net earnings derived by the United States from Federal reserve banks[], in the discretion of the [Treasury] Secretary, to supplement the gold reserve held against outstanding United States notes, or [reduce government debt]."

## 4. The Curiouser and Curiouser Coin-Swap Question is the Monied Interest's Achilles' Heel

*"How can I be the wrong Alice, when this is my dream? And who are you, if I might ask?"*
[Lewis Carroll, Alice in Wonderland]

The one little opportunity that it can't be denied, to make its own money? Until two weeks ago, that is, when Fed complaints of oversupply at last drummed the Treasury into halting dollar-coin production, except to meet coin-collector demand. Re this sea change, even the title of the Treasury press release is a lie: Reducing the Surplus Dollar Coin Inventory, Saving Taxpayer Dollars. The taxpayer's savings of $50 million per year in production and storage costs is far more than offset by the concomitant loss of face-value seigniorage. The Fed's *Annual Report to the Congress on the Presidential $1 Coin Program* (page 6) shows 358 million $1 coin orders over the last year. After deducting the $50 million costs, taxpayers *benefitted by $308 million*, plus compounding interest relief on that amount.

It's the Fed, not the Treasury, that gains from the stoppage. One cannot blame the Fed for stopping the irritating $1 per coin payments to the taxpayer, for more coins than its banks can or could care to put in circulation. But one can blame the Fed for collaborating in the misrepresentation of taxpayer savings. By curtailing coin deliveries in this false fashion, it would seem the Fed has succeeded, for the foreseeable future, in burying the coin-swap question.

*So what?* Coinage is a routinely ignored, tiny $40 billion in total.[11] Sure, understating coin revenues must spell happy days to the Treasury, and cozy visits to the Oval Office. OK, suppose the Executive *does* get free play over a small revenue stream of a few hundred million bucks. Seems like good sense to provide some such executive pressure safety valve. In any case, no *coin* question can be a big deal.

The big deal is the coin-swap *question*. Because coins are true United States currency, comparing the benefits of coins with Federal Reserve notes must in sums certain either validate or silence the growing chorus of Greenbackers, who advocate that Federal Reserve notes be generally replaced with United States note. This could realistically *eliminate* the deficit and balance the budget. In answering the coin-swap question, understating coin revenues keeps the public in ignorance of the great benefit of such a general note-for-note currency conversion. The general name for this benefit is "tax." The bulk goes into the pockets of the private banking interests represented by the Federal Reserve System.

The correct coin-swap numbers validate Greenbackers. Understating the benefit from a full dollar-coin-swap is necessary to keep buried the same core deception that, with respect to *all* Federal Reserve currency, fools and bullies[12] the government into forever rolling over a growing "debt held by the public." This class of government debt is defined as government debt *not owed to another governmental account.* It has the highest payout priority, above entitlements. Though owed to the public, because entitlements are held as treasuries in government trust accounts, they are classified as "intragovernmental debt."[13]

The core deception is that Federal Reserve notes *are* United States notes, or as good as. This falsehood is nationally imprinted, by the subprime techniques detailed above, giving rise to the now universal habit of calling them U.S. bills. Sure, the U.S. label is not without some justification. The Federal Reserve Board is presidentially appointed, and its currency is a creature of statute. Under Section 16 of the Federal Reserve Act, Federal Reserve notes are not only mandatory legal tender,

[11] *The state of U.S. coins and currency*, July 20, 2010 testimony of Louise L. Roseman, Director, Division of Reserve Bank.

[12] "[F]ools and bullies" is not pejorative but descriptive of a rationale that presumes the government so lacking the acumen and self-control in which the Fed excels, as renders the government unworthy of its very own full faith and credit, and makes it *unthinkable* that that the nation *not* gift its full faith and credit to the Fed – even where money issues mechanically. All of which is deemed obviously and culpably shown by the ballooning public debt -- as though the debt had not ballooned on the Fed's watch, after, *inter mega-alia*, a loud and clear 2004 FBI report of "epidemic" subprime mortgage fraud. The herein accepted fundament of "independent" monetary policy is assuredly *not* assured by a mostly secret Federal Reserve System dominated by private banking interests. See, e.g. Federal Reserve Directors: A Study of Corporate and Banking Influence, 1976: "As the study makes clear, it is difficult to imagine a more narrowly-based board of directors for a public agency than has been gathered together for the twelve banks of the Federal Reserve System."

[13] See the Treasury's National Debt page: "***Debt held by the public*** excludes the portion of the debt that is held by government accounts... Debt held by the public is the most meaningful of these concepts and measures the cumulative amount outstanding that the government has borrowed to finance deficits." See also the GAO's November 2011 audit of the public debt, pages 1-2, 7 n.2: "Debt held by the public" includes treasuries held by Fed, and "represents a burden on today's economy…and may put upward pressure on interest rates[.] [I]ntragovernmental debt holdings typically do not. [They] represent federal debt owed by Treasury to federal government accounts—primarily federal trust funds such as Social Security and Medicare."

but also mandatory "obligations" of the United States. However, the crucial distinction is *ownership*. The Fed lends, the nation must borrow, and the borrower is servant to the lender.

A parallel deception is that the Federal Reserve *is* the government. The 2011 GAO report is full of it.

In many ways the Fed is part of the government. At law, in its primary function of issuing the national currency, it is a government "instrumentality." The lay term now preferred by the Fed is government "entity." The reason the Fed wants you to equate it with the government is identity theft. Thereby, it hopes to perpetually divert the nation's automatic fiat money tax into the coffers of the Monied interest.

Doubtless, there is a measure of hubristic denial. Fed employees at high levels know they are the *real* government -- its best, brightest, and naturally privileged part. Dear me, no. One couldn't *conceivably* let politicians run the money supply. Just look how governments can't stop accumulating debt! To let representative governments spend their own money would be catastrophic! Perish the thought! In any case, we invented money, it's all ours. Banking is us. Here is how today's banker-historian describes Abraham's Lincoln commonsense veto of fiat banknotes:

Let the people print their own money, and they will for the first time understand that they have not printed their own money since the civil war, and that since 1913 they have been printing mislabeled "United States" banknotes on demand, for private banks to spend and lend at face-value.

These and like inculcated synonyms perpetuate the nation's continuing culture of shameful servitude to the very clique that the Framers took exceptional pains to exclude from the constitutional convention and debates -- "the Monied interest,"[14] then as now more interested abroad.[15]

Call the Fed what you will. *What matters is that the Fed's account is not a government account.*

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All this is made clear and concrete through the recent and recurrent requirements for estimates of the net benefit of replacing Federal Reserve notes with United States coins. The resultant reports serendipitously expose the Fed's Achilles' heel, which I target in a five-page "Greenbacker" lawsuit against the Treasury, filed December 28, 2011.

Part II explains the litigation.

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[14] Contrary to popular belief and prevalent publications, the constitutional record is clear re the sovereign's fiat paper money power, and *every* Supreme Court case has upheld that basic power.

The first cases (e.g.: *Lane County v. Oregon*, 74 U.S. 71 (1868); *Bronson v. Rodes*, 74 U.S. 229 (1868), *Hepburn v. Griswold*, 75 U.S. 603 (1869)) are touted as having held paper money unconstitutional, but they affirmed the legal tender power, except in that the terms of issuance did not apply to state taxes, nor could they apply to bullion contracts *agreed before the legal tender act was passed*, e.g.:

No one questions the general constitutionality…of the legislation by which a note currency has been authorized in recent years. The doubt is as to the power to declare a particular class of these notes to be a legal tender in payment of *pre-existing* debts. The only ground upon which this power is asserted is, not that the issue of notes was an appropriate and plainly adapted means for carrying on the war, *for that is admitted*; but that the making of them a legal tender *to the extent mentioned* was such a means. (*Hepburn*, 619-620, emphasis added.)

Even this limit was soon overruled. See, e.g.: *Legal Tender Cases*, 79 U.S. 457 (1870); *Gregory v. Morris*, 96 U.S. 619 (1877); *Juilliard v. Greenman*, 110 U.S. 421 (1884).

Moreover, the constitutional record is perversely plain. On August 16, 1787, the Framers' final money powers vote delisted "paper money" lest it "excite the opposition of the" monopoly-bent "Monied interest," and be used to exploit the public's aggravated paper-money phobia, so as to altogether exclude it. Before voting, Madison secured explicit agreement that this did "not disable[e] the government from the use of public notes as far as they could be safe and proper." U.S. Const., Art. I, Sec 8. See Madison's *Notes of the Debates*, 470-471. Throughout the ratification debates, the sovereign's fiat paper-money power was well understood, albeit solely as a prerogative of the far more responsible federal government. See *The Debate On The Constitution*, part 2 at 94, 110, 148, 422-423, 476-477, 639-640, 659, 678. See also Paper Money and the Original Understanding of the Coinage Clause, Robert Natelson, Harvard Journal of Law & Public Policy, Vol. 31 No. 3 (2008).

[15] "Treasury securities held by foreign and international investors represented an estimated 46% of debt held by the public." GAO audit of the public debt, November 2011, page 5. International and foreign shares in the Fed, and so implicitly in the treasuries it owns, presumably put the operationally offshore ownership well above 50%. Today, these foreign-owned forces operate within, draining technology, jobs, and money. How could "free" private capital *not* run to reliably higher profits from third world sweat-shops and bank-blessed tax havens? Overseas financing and capital flight manifest today's alien invasions. Tax Haven U.S.A. Attracts Over $3 Trillion In Foreign Dirty Money (Nicholas Shaxton, March, 2011) ironically evidences yet deeper corrosion.

## II. The Right to Petition v. Government Misrepresentations

### 1. My Deficit Reduction Proposal and the Treasury's Categorical Misinformation

What I tell you three times is true.
[Lewis Carroll, *The Hunting of the Snark*]

My complaint against the Treasury alleges that its official and authoritative publications deceitfully deny every advantage of United States notes, impairing my first amendment right to petition the government for new issues of them. I cite two personal petitions; specify categorical and financial Treasury misinformations; attach an ignored demand for corrections; and ask the court to declare that the Treasury publications are false and misleading, and repugnant to the constitution's reservation of the powers to tax and to issue paper money, under Article I section 8.

Apart from the additions below, the substance of the lawsuit is explained in two prior OpEd "American Crisis" articles, namely: A Common Sense Deficit Reduction Proposal; and Deficit Reduction Proposal Snags Treasury Misinformation. The former article presents a proposal submitted to the deficit "Supercommittee," urging that a few hundred billion dollars of automatic Social Security payments be made with new issues of United States notes, thus fully paying and retiring that debt, instead of shaving it or rolling it over at reset rates of compounding interest, with dealer fees et alia added.

Given the Fed's extraordinarily bloated balance, this would not be inflationary, nor would it impermissibly interfere with monetary policy. As Alan Greenspan observed in a June 30, 2011 CNBC interview: "If it weren't for the psychological effects, we could probably take a trillion dollars off the balance sheet of the Federal Reserve, it would essentially be removing the double counting that is going on."

The latter article presents my demand that Geithner correct the following categorical misinformation on the Treasury website, which (in separate sub-departmental sites) appears three times, twice here, and once here: "United States Notes serve no function that is not already adequately served by Federal Reserve Notes." My complaint contrarily alleges:

> Only United States notes adequately serve the functions of: (a) large, direct, prompt debt reduction; (b) interest-free financing; (c) exact economic tailoring; and (d) pay-as-you-go, collection-free, flat-tax funding. In particular, Federal Reserve notes cannot serve the function that United States notes serve in Johnson's petitions, of painlessly reducing the national debt held by the public.

The Federal Reserve's also perfunctory opposition to United States notes is visceral, precisely *because of these advantages*. See footnote 12, and Bernanke's rote denigration of the nation's constitutionally reserved fiat money power in *Central Bank Independence, Transparency, and Accountability* (May 2010): Anything "tantamount to giving the government the ability to demand the monetization of its debt, [is] an outcome that should be avoided at all costs."

### 2. The Pending Coin-Swap Bills and the Treasury's Financial Misinformation

As follows, the complaint further alleges *financial* misinformation designed to suppress the benefits of true United States notes, in Treasury comments approving as reasonably accurate a 21-year series of five General Accounting Office (GAO) estimates of the benefit to the government of replacing $1 Federal Reserve notes with $1 dollar coins.

> Answering this question requires costing the seigniorage benefits that automatically readjust when United States currency, coin or note, mixes with and/or replaces Federal Reserve currency. Thus, answering this question on the small scales of coinage implicitly answers it on every scale, including complete conversion of the currency. These benefits are in fact so high that they swamp the benefits that the GAO report instead labors to compute, as follows. Had the face-value seigniorage benefits been properly included in the GAO report, they would have trumpeted the huge and prompt debt reducing advantages of United States currency.

On this matter, the Fed and the Treasury are in sync. The bunkum benefits estimation model was created by the Fed.

Part III will detail the colossal dollar understatements. Here I note that only there is now pending a pair of bills proposing to go ahead with the proposed $1 coin-swap, approximately per the schedule assumed and costed in the March 2011 GAO report. The complaint alleges these pending bills, and my petitions in support of them, as follows:

> Exhibit C comprises **(a)** a February 4, 2012 Chicago Sun-Times article re the January 31, 2012 introduction of bill S. 2049, and re pending bill H.R. 2077, which propose to replace all Federal Reserve $1 notes with $1 United States coins; and **(b)** a February 23, 2012, supporting petition submitted by Johnson (aka Tom_Paine_II), through the POPVOX.com public forum, to both of the respective congressional committees and to both of his congressmen, based on the $58 billion taxpayer savings further specified in paragraph 8(iv).

The Chicago-Sun Times article argues against the coin-swap bills, based on the GAO's gross underestimates of the financial benefit to the government. Numerous comments re the pending bills also authoritatively cite these estimates.

### 3. The General Greenback Petition That Deserves Your Support

In one sense, Federal Reserve notes are as good as United States notes. Under the Federal Reserve Act, Fed notes "shall be obligations of the United States." This means that they too are backed by the nation's faith and credit. In 1971, when Nixon took the U.S. off the international gold standard, it had been the Treasury that redeemed Federal Reserve notes in gold, not the Fed. Ever since, Fed notes have been a "fiat" currency.

The public automatically pays a flat tax on each note, called "seigniorage," equal to the note's face value, minus production and processing costs. When the United States issues a note, the tax goes to the Treasury. But when the Fed issues a note, the Fed takes the tax.[16] For, although printed by the Treasury and backed by the government, Fed notes are *bank*notes, printed as ordered by the Fed. The Fed owns the notes, and pays the Treasury the cost of printing them.[17]

Thus, the Fed is gifted with a monopoly in issuing notes on the nation's faith and credit, and receives assets equal to the face-value of each note it puts into circulation (minus print/process costs). And although the Fed supposedly returns all its "profits" to the government, the increase in its assets on its balance sheet does not count as profits, Fed shareholders receive a fixed 6% dividend, and the tax returns to the government are only a fraction of the taxpayer's savings, as I shall show in Part III, re the coin-swap question. The rationale for this homage to the Monied interest is that the government cannot be trusted to print its own money, whereas the Monied interest can, under the presidentially appointed Fed board.

The new petition is to "End the Debt Crisis with debt-free United States Notes!" It seeks to *generally* replace Fed notes with true United States notes, so as to stop the stupid surrender and waste of essentially *all* of the nation's paper money power and value.

> Money should belong to the people, not the banks, and should be issued in sufficient quantity to meet the productive capacity of the nation, not withheld from circulation by banks that did nothing to deserve it.

A fuller monetary reform package is incorporated in HR 2990 (the "Need" act), sponsored by Dennis Kucinich. I urge you to read and sign it. See also the American Monetary Institute.

### 4. The Unconstitutionally Unlimited Gift of Face-Value Seigniorage Tax

An unlimited power to tax involves, necessarily, a power to destroy.
[Daniel Webster, arguing *McCulloch* v. *Maryland* 17 U.S. 327 (1819)]

While fully supporting the petition, my complaint is framed to respect existing monetary structures, and so puts at issue only the physically printed portion of Fed money, as follows:

> The physical printing of notes is an entirely mechanical matter of meeting demand, and so Johnson proposes that all physically printed notes be United States notes. In 2011, this would have reduced the debt held by the public by almost the projected $258 billion printed.[18] The pool of such printed notes in circulation is about $1 trillion.[19]

[16] The Federal Reserve recognizes that the seigniorage it garnishes is a taking of tax. See, e.g., 2001 FOMC minutes, page 15.

[17] See the Fed website page How much does it cost to produce currency and coin?

[18] Print costs are trivial, due to $100 bill demand. The print counts for 2010 were: 1,856 million $1 bills; and 1,907 million $100 bills.

[19] See Currency in Circulation. For 2011 print volumes, values, costs, see **2011 New Currency Budget**.

As with the issuance of mandated Social Security payments (the subject of my first petition), this mechanical issuance does not call for the independent expertise of market-wise bankers. "According to both the BEP and the Mint, production of notes and coins in various denominations is driven totally by demand."[20] In fact, the volumes printed are so *utterly* a mechanical response to public demand, that "[t]he Federal Reserve *measures* demand for U.S. currency by the amount of currency in circulation."[21] This does not impact unprinted reserves with which monetary policy is conducted.[22]

"The only limitations on the power of Congress to levy excise taxes are that they must be for the public welfare and must be uniform throughout the United States."[23] There being no rational basis for giving the tax generated by this issuance to private banking interests, the tax is not raised, as the constitution requires, "to pay the Debts and provide for the common Defence and general Welfare of the United States." By the same token, although geographically indifferent, the tax is not "uniform" in the required constitutional sense, in that the tax on the favored Monied interest is entirely refunded, being included in the pool of tax that it takes. Without a justifying public benefit, the tax is a baseless redistribution of wealth.[24] U.S. Const., Art. I, Sec. 8.

### 5. Johnson v. Department of the Treasury

> Freedom of the press means freedom to gather news, write it, publish it, and circulate it. When any one of these integral operations is interdicted, freedom of the press becomes a river without water.[25]
> [*In re Mack*, 126 A.2d 679, 689 (Pa. 1956) (Musmanno, J., dissenting)]

I found myself in this litigation as a matter of fact, not design. The First Amendment right-to-petition legal "theory" *happened* to me. A reader of the OpEd article re my Supercommittee petition referred me to the Treasury site, on which I then discovered the Treasury's misinformations. I was and am genuinely angry at it. *Of course* the information serves to block my petitions. Their very purpose is to preempt exactly such public debate. I've put a lot of effort into my greenback advocacy, and shouldn't have to confront misrepresentations of categorical and financial fact from the nation's top fiduciary.

In this frame of mind I wrote it up the complaint as an experienced, angering fact, without first checking for right to petition precedents. I've since found very clear authorities to support each element of the claim, but have not (as yet) found any decision specific to a plaintiff whose petitioning is directly contradicted by deliberately suppressive, officially posted government misrepresentations.

Misrepresentations re a trillion tax dollars by a Treasury Secretary are within the plain meaning of statutes that criminalize misrepresentations re a few hundred tax dollars by you and me.[26] At the very least, such official misrepresentations are repugnant to the First Amendment, and a public nuisance that surely cannot stand,[27] where shown to impair a plaintiff's authentic advocacy.

Causation follows a well-established anti-trust doctrine, which recognizes that it is in the nature of monopolistic and dominant organizations to exploit their economic and media power to frustrate and discredit small-fry competition, including by broadcasting suppressive falsehoods in officious forms. Although such publications are ordinarily protected as free or

[20] 1990 GAO report, page 9.

[21] *The state of U.S. coins and currency*, July 20, 2010 testimony of Louise Roseman, Director, Division of Reserve Bank (emphasis added).

[22] Before the recent bouts of quantitative easing, physically printed notes represented about 95% of all notes issued. It now represents only about 37% of them. See William Hummel's December 4, 2011 response to my question on his "understandingmoney.com" blog.

[23] *Flint v. Stone Tracy* 220 U.S. 107, 110 (1911).

[24] See *United States v. Ptasynski*, 462 U.S. 74, 84-85 (1983) (classification must have some nonpreferential basis).

[25] Quoted in From Sunshine to Moonshine: How the Louisiana Legislature Hid the Governor's Records in the Name of Transparency, Blanchard, 71 Louisiana L. Rev. 703, 708 (2011).

[26] See *United States Of America v. Schultz*, 529 F. Supp.2d 341, 348 (N.D.N.Y. 2007): "[T]o prove a violation of § 6700, the Government must also show that the [defendants] made false or fraudulent statements concerning the tax benefits of participating in the plan or arrangement." [Citation.] "Two types of statements fall within the statutory bar: statements directly addressing the availability of tax benefits and those concerning factual matters that are relevant to the availability of tax benefits." [Citation.]

[27] This civil rights claim might not be valid against Fed officers, since they are not officers of the United States. *Melcher v. FOMC*, 644 F.Supp. 510 (D.D.C. 1986). A public nuisance claim would rope in Fed defendants. See *Redevelopment Agency v. BNSF Railway*, 09-16585 (9th Cir. 6-28-2011): "California law defines a nuisance, in part, as '[a]nything which is…an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.' Cal. Civ. Code § 3479." However, for my purposes, less is more.

privileged speech, the anti-trust laws set a standard for challenging them, on account of the abusive intent, especially where the suppress the same freedoms in the competition. See, e.g., *Associated Press v. United States*, 326 U.S. 1 (1945):

> It is apparent that the exclusive right to publish news in a given field, furnished by AP and all of its members, gives many newspapers a competitive advantage over their rivals… AP is a vast, intricately reticulated organization, the largest of its kind, gathering news from all over the world, the chief single source of news for the American press, universally agreed to be of great consequence…Surely a command that the government itself shall not impede the free flow of ideas does not afford non-governmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom.

The Treasury is thus more directly barred from exploiting its similarly exclusive media advantage, as the nation's definitive source of information re currency and the national debt, to suppress First Amendment freedoms.

Such abusive tactics are typical to prevent, delay, and otherwise frustrate the prosecution of anti-trust suits, which are petitions to the government. They are exactly what anti-trust actions are intended to remedy, and often entail a controlling clique (like the Treasury and Fed), whose shared purpose is "putting their competitors, including plaintiff, out of business, of weakening such competitors, of destroying, eliminating and weakening existing and potential competition, and of monopolizing the…business." *Eastern Railroad Conference* v. *Noerr Motor Freight*, 365 U.S. 127, 137. See also *California Transport v. Trucking Unlimited*, 404 U.S. 508, 512 (1972) where such conspirators "sought to bar their competitors from meaningful access to adjudicatory tribunals and so to usurp that decisionmaking process."

The official Treasury misinformations that I challenge are in the same way fashioned to preserve a monopoly against competition, namely, the monopoly of the Fed in issuing all of the nation's currency (except for coins). The difference is that the immunities that are overcome in the regular antitrust context arise from a private monopoly's own First Amendment rights, to free speech and to petition.

Specifically, my claim is that an official government publication loses its legitimate protection against a suit for declaratory relief, when the publication includes *misrepresentations* intended to suppress public debate on the issues that the plaintiff advocates. To me this would seem a keystone principle of republican government. Notwithstanding the founding fathers' famous distrust of government speech, after 240 years, this fundamental question of constitutional law has yet to be decided! The question arises under the recently minted "government speech" immunity doctrine.

It is not clear that the immunity applies where purely declaratory relief is sought, to remedy an ongoing impairment of the right to petition under the First Amendment. In 18qq, *Ex Parte Young* categorically disallowed the state immunity defense against civil rights suits for merely declaratory relief. In 20qq, CITE ruled otherwise.

A free-speech precedent[28] for jurisdiction is *Bernstein v. United States Dept. of Justice*, 192 F.3d 1308 (9th Cir. 1999), which granted declaratory relief, holding that plaintiff's free speech rights were violated by a regulation where the responsible "government official or agency [had] substantial power to discriminate based on the content or viewpoint of speech by suppressing disfavored speech."[29] Unlike my complaint, which also alleges the incidental violation of two constitutional provisions, Bernstein alleged no more than the deprivation of his First Amendment rights. However, Bernstein was not confronted by a government speech defense.

A misrepresentation precedent is *Kearney v. Foley & Lardner*, 590 F.3d 638 (9th Cir. 2009), which held that a government agency or official's conduct, even with the additional immunities of a litigant, loses all legitimacy and so immunity, by "intentional misrepresentations," or by "furnishing with predatory intent false information," so as to foil the contrary petitions of a private party. Kearney also observed that the right to petition generally protects incidental conduct, including "the use of `the channels and procedures' of state and federal courts to advocate causes."

Finally, I should add that the trial court is supposed to decide First Amendment cases promptly. *City Of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774, 786 (2004) (Stevens dissent: "mere possibility of promptness is emphatically insufficient to guard against the dangers of unjustified suppression of speech").

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[28] Free speech precedents suffice because the "Petition Clause…was inspired by the same ideals of liberty and democracy that gave us the freedoms to speak, publish, and assemble. These First Amendment rights are inseparable." *McDonald v. Smith* 472 U.S. 474, 484 (1985).

[29] The agency duly changed the regulation, which mooted further appellate proceedings. On remand, the trial court found that the change had cured the violation. *Bernstein v. U.S. Department of Commerce* (N.D.Cal. 2003).

## Part III. The Treasury-Fed Coin-Swap Coverup

*It depends upon what the meaning of the word "is" is.* [President Clinton, under oath]

### 1. The Embarrassing Coin-Swap Proposal and the 21-Year Old Cover Model

What is the estimated net benefit, if any, to the government [taxpayer[30]] of replacing the $1 note with a $1 coin?

The GAO answered this "coin-swap question" for Hon. Richard Shelby, ranking member, Committee on Banking, Housing and Urban Affairs, United States Senate, et alia, in the March, 2011 report, *U.S. COINS: Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government*, GAO-11-281. The first page, and then page 8, state:

> We have reported four times over the past 20 years that replacing the $1 note with a $1 coin would provide a net benefit to the government of hundreds of millions of dollars annually. Because this last estimate was a decade old, you asked us to update it.
>
> In past work we reported that the annual net benefit to the government of replacing the $1 note with a $1 coin would be about $318 million (1990), $395 million (1993), $456 million (1995), and $522 million (2000). [31]

Some of these reports additionally addressed simpler scenarios, such as the benefits of adding a billion $1 coins to the circulation. I address only on the full replacement of $1 notes with $1 coins, and dispute only the net *seigniorage* tax benefits that automatically accrue, merely due to the fact that United States currency is replacing Federal Reserve currency. These benefits would be exactly the same if United States *notes* were used to replace the Fed notes. In that scenario there would be no differences in the quantity of notes required, and only small differences in concomitant costs, so that these benefits would per se represent the net benefit of the replacement; and they would directly scale up to represent the benefit of replacing all Fed notes with true United States notes.

I accept all other estimates and predictions as given in the reports, including costs and rates of coin and note production and processing, growth of the currency, rates of inflation, and ratios of coins per note needed to fit the different pattern of public usage. Because of this, the full seigniorage tax differences (without considering costs) represent the true differences between my net benefit estimates and those given in the GAO reports.

Thus, only the seigniorage tax benefits are of concern. In every report, the GAO estimates them using the same arithmetical model, which the Fed provided. In particular, all reports mistakenly affirm, as rules:

> **(1)** For each coin *added* to the circulation without replacing a note, the only benefit to the taxpayer is future interest avoided from there being no need to borrow that dollar.
>
> **(2)** For each coin put in circulation for which a note is withdrawn ("coin-swap"), there is *no* taxpayer benefit, because the interest relief from not borrowing that dollar is exactly offset by the loss of that interest from Fed profits returned to the Treasury.

The above rules, and so all five reports, coverup and drastically understate net taxpayer benefits, because:

> **(1)** For each $1 coin put in circulation, *whether or not to replace a note*, the taxpayer benefits by $1, which reduces debt held by the public, else increases a surplus.
>
> **(2)** Assuming today's debt, when $1 coins replace $1 notes, the interest payments that are lost from returned Fed profits are, per coin-swap, only 18.5% of the interest relief gained**,** because the Fed holds only 18.5% of the debt held by the public.

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30 For clarity, I prefer the word "taxpayer" to "government." I explain why in due course. Here, it suffices to note that it is unimaginable that Congress did not intend for the answer to keep it in ignorance it as to the net taxpayer benefit, and that this was unambiguously understood as the question asked in the below four reports that the 2011 report updated and refers the reader to for model details.

31 GAO, National Coinage Proposals: Limited Public Demand for New Dollar Coin or Elimination of Pennies, GAO/GGD-90-88 (Washington, D.C.: May 23, 1990); 1-Dollar Coin: Reintroduction Could Save Millions If Properly Managed, GAO/GGD-93-56 (Washington, D.C.: Mar. 11, 1993); Dollar Coin Could Save Millions, GAO/T-GGD-95-203 (Washington, D.C.: July 13, 1995); and Financial Impact of Issuing the New $1 Coin, GAO/GGD-00-111R (Washington, D.C.: Apr. 7, 2000).

The Treasury and Fed provided guidance and comments that are reported or reproduced in each report. A plethora of other government and non-government entities contributed, cited in the reports. Throughout, the Treasury and Fed approved the GAO's net benefit estimates as acceptably accurate. The Treasury of course knew better, having minted and issued coins routinely, ever since the nation's birth.

It suffices to particularly compute the amounts understated in the first and last report.

## 2. The 1990 Report Suppresses $48 Billion Face-Value Tax Revenue

Fortunately, Appendix V to the 1990 report (Definition of Seigniorage,[32] pages 49-51) provides a simple example stating both the up-front face-value seigniorage tax revenue, which is not counted in the net benefit, and the interest relief from that revenue, which is the only seigniorage tax counted in the net benefit. As follows, the example states these benefits when 1,000 new dollar coins are put in circulation.

> As a result of manufacturing the coins and depositing them with the Federal Reserve, the Treasury would realize the following net consequences:
>
> An increase in its checking account at the Federal Reserve of **$940** ($1,000 [face value payment from the Fed] – $12 [Mint operating expenses] - $48 [cost of metal])
>
> Further, assuming Treasury's cost of borrowing was 8.6 percent, Treasury would realize interest savings of $80.84 ($940 times 8.6 percent) in the subsequent year, due to the amount of borrowing that was displaced by seigniorage.

On page 37, the interest is reduced by 4% to discount inflation, giving a year's savings of **$43.24** ($940 times 4.6%)

To replace all one dollar notes, the 1990 report assumed that twice as many coins would be required, owing to differences in usage and storage habits due to relative convenience, and based on the experience of other nations in replacing notes with coins. By 2011, the estimated replacement ratio was reduced to only 1.5 coins per note. However, the 1990 replacement ratio is reduced to 1.5, owing to a concurrent plan to replace some of the $1 notes with $2 notes. These ratios greatly affect the low benefits reported, but have less effect on the far higher true benefits.

All this I accept. So, given the simplicity of the arithmetic, how did the GAO, mentored by the Fed and Treasury, contrive to sound reasonable while drastically understating the seigniorage benefits of the coin-swap proposal? Here is how the question is restated and answered in the report's opening summary, on page 2. It's a trick answer.

> To evaluate potential government [taxpayer] savings of replacing the dollar bill with a dollar coin, GAO adopted a computer model used by the Federal Reserve System…
>
> GAO estimates that the government [taxpayer] could realize annual budgetary savings of about $318 million (in present value dollars) if it replaced the dollar bill with dollar coins and if the dollar coins were widely accepted and used. The savings would accrue primarily by reducing production and processing costs and the need to borrow from the public to finance the debt.

The body of the detailed analysis repeats the same final answer (page 14):

> If the l-dollar notes were replaced by dollar coins, the government [taxpayer] could reduce its budgetary costs by $318 million a year.

The primary trick is to frame the answer as an *annual rate* of savings averaged over *30 years*, purportedly to reduce the significance of initial costs during a five-year transition (page 11):

> To evaluate the potential savings and other impacts on the federal government [taxpayer], we projected the estimated costs of producing and processing dollar notes and dollar coins over a 30-year period, using a computer model that we obtained from the Federal Reserve System's Board of Governors. We used a 30-year period because we wanted to determine the long-range effects of changing our currency and coins, which we assumed would take place during the first 5 years of our 30 year analysis period.

[32] The formal definition omits the small deduction for the Mint's operating expenses, but the net benefit calculation of course deducts it.

This focuses on the differences due to ongoing production and processing costs, plus the annual interest relief. Attention is drawn away from the omission of the face-value tax received for the huge start-up addition of coins as notes are withdrawn, and thereafter to meet circulation growth -- even though this tax must first be calculated so as to find the interest relief that it gives rise to, which is not omitted.

Is the face-value omission justified? Lookie, lookie! Conceding that these omissions average $1.6 billion a year, which dwarfs the reported benefit of $318 million a year, they are guiltily discounted by the only underlined words in the report ("size," current; and "finance," future),[33] as follows 15-16:

> As explained below, we estimated that overall budgetary savings, on a present value basis, will average $318 million a year, after considering the savings in production and processing costs, debt interest avoided through profits made on coin production, the initial start-up costs associated with introducing a new dollar coin, additional operational costs for the Mint, and the loss in Federal Reserve portfolio earnings made on its holding of government [taxpayer-backed] securities purchased by issuing dollar notes.
>
> When the Mint produces coins, it recognizes as a profit the difference between the coins' production costs and their face value. The concept of the government's [taxpayer's] recognition of such profit is called "seigniorage" (see app. V). We estimated that seigniorage would average $1.6 billion a year, in present value dollars, from the production of dollar coins over the 30-year period. The cumulative seigniorage would average $23.1 billion annually. Seigniorage itself has no impact on the size of the current budget deficit but does reduce the amount of money that must be borrowed from the public to finance future deficits. Thus, in this instance, Treasury would avoid the need to borrow $23.1 billion a year, on average, to finance the Nation's debt. We estimated that this would equate, on an average present value basis, to a $461 million a year reduction in interest costs and future budget outlays and deficits.

First, note the model's impertinent presumption that the taxpayer will always be in debt. To suppose that the government might operate without debt is not only conceivable, it was deemed so likely in 2001, that the Federal Reserve Open Market Committee held a special two-day meeting to discuss what securities they should buy, when government bonds dried up. [34] Without debt, the face-value tax benefit could not be palmed off as future interest saved by a reduced need to

[33] In (Pentagon) testimony I once pored over, a good rule of thumb turned out to be that, if a witness simply denied something, then it likely as not *was* false; whereas, if a witness *absolutely* denied something, then it was sure to be true.

[34] Meeting of the Federal Open Market Committee, January 30-31, 2001. Until the 1930s, the Fed did not buy government bonds. A History of the Federal Reserve, Vol. I, Meltzer (2003), page 741 (emphasis added):

> One of the [1913] Federal Reserve Act's major innovations *removed* government securities as collateral behind Federal Reserve notes. The intent was to make note issues more 'elastic,' capable of expanding and contracting with commerce, agriculture, and trade…The Glass-Steagall Act of 1932 reversed the original innovation by permitting the Federal Reserve to use government securities in place of eligible paper as backing for its note issue. Originally a temporary measure, after several renewals [it] became permanent.

By 2001, the FOMC rated treasuries so far above everything else, that it dreaded having to *think* what else to buy. Here's its premise:

> Under a wide variety of assumptions about the growth of the economy and the political process, Treasury debt will be repaid over coming years. Even if the entire on-budget surplus is used in tax cuts and new spending, debt will be close to extinguished in 10 years under a fairly conservative assumption of 3-1/2 percent trend economic growth.

All regretted the coming debt-free government. Since the Fed returns its profits to the government, Mr. Broaddus' recommendation was that the Fed start buying securities with super low returns. They would pay so much less than treasuries, that the government would again sell treasuries to the Fed simply to get higher Fed profits returned! (Even though these returned profits would be no more than its own interest payments.) Mr. Poole suggested the Fed might beg to borrow the vast assets into which Social Security debt would be converted.

> Mr. Goodfriend: President Broaddus's point is that no one in the government needs to acquire private assets to implement monetary policy.
>
> Mr. Greenspan: Nobody disagrees with you on that.
>
> Mr. Goodfriend: Okay. Then if our goal's to minimize private assets acquired by the government, we could make that understood…in which case they would do with the money what Governor Meyer is saying –
>
> Mr. Greenspan: Meaning, lower their surpluses and refund taxes.
>
> Mr. Meyer: Think of it as a "money rain" every day!

Vice-Chairman McDonough recoiled at "the invidious notion of Social Security or any other part of the U.S. Government holding assets. There would be the temptation--and humans would surely succumb to temptation as they have since the fall of Adam--for political borrow. There would be no need to borrow to reduce. According to the Fed's model, since debt reduction is no benefit worth mentioning, then a surplus can be of no benefit, else reducing the debt would be a benefit if only so as to eventually reach a surplus.

More importantly, note that, after 30 years, $1.6 billion times 30, i.e. $48 billion in present dollars, will have been credited to the Treasury's taxpayer checking deposit account, as face-value tax payments. And an untold, highly disproportionate part of this $46 billion would be realized in the initial five year transition period. Whatever the accounting techniques, it is a plain fraud on the taxpayer to exclude this amount in reporting the "potential government savings of replacing the dollar bill with a dollar coin."

No GAO report would again leak these arresting face-value tax numbers, despite reporting the interest relief from them as the only benefit. Even so the 2000 report managed to blow it, presumably because it was hurried and informal,[35] in the one-paragraph answer it gave to the small question of adding one billion $1 coins to the currency. Here is that paragraph, in full (Financial Impact of Issuing the New $1 Coin (GAO/GGD-00-111R), page 2 (emphasis added):

> We estimate that the net benefit to the government of issuing 1 billion $1 coins this year will be $49.9 million. According to the Mint, each dollar coin will cost an estimated $0.12 to produce, leaving about $880 million in gross proceeds. *From gross proceeds, we subtracted $2.8 million of Mint start-up costs, $44.5 million of Mint advertising and promotion costs, and $0.4 million of Federal Reserve processing costs*, for net proceeds of $832.2 million for 1 year. Although the accounting and budgeting presentations of the net proceeds differ, *in substance the $832.2 million net proceeds represent the amount of debt held by the public that the government will avoid by issuing coins*. At the current government long-term borrowing rate of 6 percent, this represents an interest avoidance, or net government benefit, of $49.9 million this year.

Note the same farcically insubstantial "in substance" rationale that summarily discounts the size of the tax. More tellingly, note the passing characterization of the $1 billion face-value tax, minus costs, as "net proceeds" that reduce the "debt held by the public." And most tellingly, note how the deducted costs *included the Mint's relatively tiny start-up costs.*

Returning to the 1990 report, contrast the inclusion of all such initial *costs* in the estimated benefits. The 2011 report stressed the inclusion of these costs, noting that (page 12) "[o]ur 1990 analysis more closely resembled the current analysis in that it more fully included start-up costs in a 30-year analysis." As a matter of fundamental integrity, if start-up *costs* count, then so *must* be offsetting start-up *receipts*, as in the above incidental paragraph from the 2000 report.

Fraud on the taxpayer, intentional.

### 3. The 2011 Report Suppresses $43.5 Billion Face-Value Tax Revenue

Now let's look at the 2011 report. Here is its cover-page summary, with chart:

> According to GAO's analysis, replacing the $1 note with a $1 coin could save the government approximately $5.5 billion over 30 years. This would amount to an average yearly discounted net benefit—that is, the present value of future net benefits—of about $184 million. However, GAO's analysis, which assumes a 4-year transition period beginning in 2011, indicates that the benefit would vary over the 30 years. As shown in the figure below, the government would incur a net loss in the first 4 years and then realize a net benefit in the remaining years. The early net loss is due in part to the up-front costs to the U.S. Mint of increasing its coin production during the transition.

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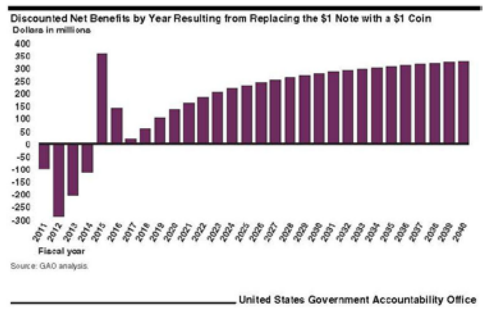
meddling in the private sector. I think we should avoid that in any way that we possibly can." Looking ahead to the decade when Social Security would at long last have more outlays than revenues, Mr. Poole wistfully reminded everyone that "Once the Social Security system is selling off assets, our problem will become a bit easier." Pages 13, 17-18, 25.

[35] "To expedite this letter, in calculating the government benefits from converting from $1 notes to $1 coins, we simplified the Federal Reserve model and did not calculate average annual present value savings over 30 years. Instead, we calculated the average annual benefits by using current dollar estimates for 1 year, using the same cost factors and elements used in the model and assuming the coin was fully implemented." (Pages 1-2.) With respect to the coin replacement, the report states the $15 billion "face-value" of coins as the basis for interest relief, but only *en passante*, without comment (page 6, note h).




Throughout, the report belabors the finding of net losses for the first four years. In fact, the face-value tax would absorb the initial losses as tiny deductions, and the subsequent gains as tiny additions! By omitting the size of face-value tax accumulations, the 2011 report covered-up an early reduction of $13.75 billion in debt held by the public, owing to 9.5 billion dollar bills being rapidly replaced with 150% as many coins; and a further reduction in excess of $30 billion from coins added throughout the 30 years, as the currency grew.[36] This renders fraudulent the estimated a net benefit of $5.5 billion.

Note well that this and other omissions are not excusable as due to budget accounting quirks. Congress made clear its desire to know *all* benefits to the government, and the report reiterated this (page 26):

> We use the term 'benefit' rather than revenue because we consider the income from an economic standpoint instead of a budget scoring standpoint. This is consistent with past GAO work on this issue.

Whereas the 1990 report guiltily underlined two words to excuse the omission of a conceded $46 billion face-value taxpayer benefit, the 2011 report served up this same omission by brazenly fusing the Fed, as a "central bank," with the "government," stating that a tax taken by the central bank *is* "analogous" to a government tax, so that it does not matter whether the face-value tax is acquired by the Fed or, say, used to reduce the debt held by China (page 2; emphasis added):

> To promote efficient commercial exchange and economic growth, national governments and central banks issue money, including paper notes and coins in various denominations. The federal government experiences a financial gain when it issues *notes or coins* because both forms of currency usually cost less to produce than their face values. As long as there is a public demand, when the government puts coins into circulation, it creates a value known as "seigniorage." Seigniorage is traditionally defined as the difference between the face value of coins and their cost of production. In addition, *the face value of notes issued, net of their production costs, creates an analogous net value for the federal government.* In this report, we use the term "seigniorage" to refer to the value created from the issuance of *both coins and notes.* Seigniorage reduces the government's need to raise other revenues, thus reducing the amount of money that the government needs to borrow. [Footnote:] We are assuming a status quo tax structure.

I concede that the Fed can properly be deemed a government instrumentality, entity, or, for some legal purposes, an agency. Moreover, I concede that the nation *de facto is* now governed by the Monied interest that the Fed first and foremost serves. This is the senseless servility that I seek to expose and reverse. Accordingly, I would prefer to retain the classical concept of "government," as referring to our elected bodies, and to agencies directly funded by what the Treasury classifies as "governmental" accounts.[37] But call the Fed what you may. To taxpayer accounting, and to set the lender-borrower/master-servant relation, all that matters is that the Fed's account is not a governmental account.

Finally, what on earth is the point of the exculpatory footnote, "[w]e are assuming a status quo tax structure"? Who suggested otherwise? Is there some plan afoot for a further end run around the constitution, enabling the Fed to finally snuff our last flickering flame of national freedom, whose tiny truth is its Achilles' heel -- *United States* coins?

Oh well, to look on the bright side, re the coverup of interest relief gains, that final footnote will provides a neat bow to with which to tie up my analysis.

[36] These figures are taken/deduced quite simply from the table on page 32 (base case column). If in error, they can't be so far off as to meaningfully alter the order-of-magnitude conclusions drawn.

[37] See footnote 13 re these accounting classifications. Fed banks pay fixed 6% dividends, and the Fed's account is extrinsic, like China's.

## 4. The 1990 and 2011 Reports Suppress $5.3 and $14.5 Billion in Interest Relief from Coin-Swaps

*Though this be madness, yet there is method in't.*
[Shakespeare, *Hamlet*, Act 2, Scene 2]

Here is how the 1990 report explains its rule that, when a $1 coin is put into circulation and a $1 note is withdrawn from circulation, there is no net gain of interest relief to the taxpayer (page 42):

> "Currently, the Treasury receives the Federal Reserve's earnings on assets associated with the outstanding 1-dollar Federal Reserve notes. Generally, the difference between the face value of the notes and the cost of printing and an allocation of Federal Reserve operating costs is used by the Federal Reserve to purchase Treasury securities, which make up the Federal Reserve's portfolio. The Federal Reserve credits Treasury with the earnings received from those investments. If notes are withdrawn from circulation, the portfolio and its earnings are reduced accordingly. We estimated the average Federal Reserve portfolio earning rate to be 4.61 percent, the same rate we used for the model's discount rate. We multiplied this rate by the decreased value of l-dollar notes in circulation to calculate the loss in portfolio earnings."

In other words, as later GAO reports more simply put it, for coins that replace a note, there is no net interest relief gain, because the interest relief on a dollar's debt reduction is cancelled by the loss of interest returned by the Fed, from holding a dollar less in government debt. Thus, the later reports more simply calculate the interest relief using only the count of coins *added* to the currency. If the replacement ratio is 1.5, then the interest relief accrues from only the added 50% of circulating dollars.

Once again, the model impertinently presumes government debt. Government freedom from debt would void the proposition that, when a coin replaces a note, the government must lose the interest returned in Fed profits, on a dollar's worth of government bonds. There would be no government bonds. See footnote 34. But the rationale is more messed up than that. It is missing essential details.

Let's break down the process into simple transactions, for a 1,000 batch of dollar coins. First from the Treasury's perspective, then from the Fed's. Only the face-value tax and interest on it are of concern, the production and processing costs being undisputed. Also, we need to know what fraction of the debt held by the public is held by the Fed. As of November 2011, this fraction was 1,880,000/10,127,031=18.5%.[38]

(i) The Treasury issues 1,000 new coins to the Fed, at which time the Fed credits the Treasury's checking account at the Fed with $1,000.

(ii) As soon as convenient, let's say promptly, the Treasury calls off a $1,000 bond sale. Interest paid on this amount is thus realized. The called off sale could not have been a sale to the Fed by law,[39] so there's no loss of interest returned, not at once.

(iii) However, the Treasury has added $1,000 to the overall money supply, triggering a Fed bond sale to balance it back. (More precisely, the new money triggers lower interest rates that the Fed raises back again by its bond sale.) We'll leave that balancing purchase up to the Fed, as follows.[40]

(iv) The Fed retains the 1,000 $1 coins as non-interest bearing assets, until it puts them into circulation, in exchange for the 1,000 $1 paper notes that are swapped out. In so doing, it does not lose any interest income at all – ***it loans out the coins the same way it loans out the dollar bills that it replaces***.[41]

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[38] Financial Audit: Bureau of the Public Debt's Fiscal Years 2011 and 2010 Schedules of Federal Debit (November 2011, GAO-12-164). Pages 24, 25.

[39] Federal Reserve Act, section 14 (b).

[40] We can more quickly obtain the result from the Treasury's blindly independent perspective, as follows. What proportion of the $1,000 of debt held by the public that was therefore not created by new sales of Treasuries would over the long term have been bought second-hand by the Fed? Because the Fed's purchases are not directly from the Treasury, but in the open secondary market, as far as the Treasury is concerned, the expectation is simply the proportion of debt that the Fed holds over the long term, which is only 18.5%. This is the amount of interest therefore lost, i.e. that would have been returned to the Treasury, had it borrowed the $1,000.

[41] This is not true of coins directly issued to coin collectors; but such issues have no effect on the Fed's quantitative operations or profits.

(v) Nevertheless, as in (iii) above, general circulation has been increased by the $1,000 of checking-account money that the Treasury has spent. To maintain the quantitative status quo (should it so decide),[42] the Fed must sell bonds to withdraw the added circulation, thereby re-raising interest rates naturally lowered by the added circulation. The Treasury dollars were checking account money, spent to finance the government.[43] To maintain the status quo in this case by reasonable economic default translates into preserving the Fed's share of the debt held by the public.[44] To do this, per dollar, the Fed can sell no more of that debt than the fraction of the $1,000 that is its proportionate share. This fraction is 1,880,000 / 10,127,031 = 18.5%.[45]

Accordingly, the loss from returned Fed profits is only 18.5% of the loss from a $1,000 bond sale, so that, per coin-swap, 81.5% of the interest relief from the coin payment is retained.

Using figures from page 3 of the 1990 report, the full interest relief of $461 million per year after deducting 6% costs, derived from a 2-1 substitution, half of which was ultimately discounted, but 81.5% of which should have been retained, yields an omitted amount, in millions of dollars per year, of:

{ [ 461 / 94% ] / 2 } * 81.5% = $176.5 million dollars per year = **$5.3 billion** over the 30 years

The margins of error would not meaningfully affect the order-of-magnitude conclusion.

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[42] Status quo is properly presumed in monetary proportions, et alia, both as the default assumption in economic inflation scenarios, and by virtue of the Fed's "stability" mandate. Note the Fed's own circumstantial status quo assumption, quoted in the last paragraphs of the previous point. Status quo can of course be overridden by temporary directional policies which average to a norm. Although it is true that so-called "quantitative easing" arguably amounted to such a directional policy, it has been discontinued, and the Fed now repudiates any intention to take on a greater share of the debt held by the public. See, e.g. the Fed's answer to the FAQ "Is the Federal Reserve printing money in order to buy Treasury securities?" It refers to "the current elevated level of reserve balances," implying that the government debt it holds will in due course be *reduced* to a normal long term level, not increased. See also the FAQ "Aren't the Federal Reserve's purchases of Treasury securities effectively financing a large part of the federal deficit?":

"No. The Treasury issues new securities to finance the federal deficit, and a range of domestic and global investors have continued to be the primary source of funding in this market. Most of the Federal Reserve's purchases have been of "old" Treasury securities that were issued by the Treasury some time ago. Moreover, the Federal Reserve's purchases of Treasury securities have been quite small relative to the overall buying and selling activity in the Treasury market. For example, on average, daily purchases of Treasury securities by the Federal Reserve since November 2010 have amounted to only a small fraction of the total daily trading volume in the Treasury market."

The fact that this apparently ignores the voluminous roll-over of securities does not alter the overall small-fraction affirmation.

[43] The money is routed through the Mint, which deducts its costs, to the Treasury's General Fund. See *How the Costs and Earnings Associated with Producing Coins and Currency Are Budgeted and Accounted For* (April 2004, GAO-04-283, page 11):

> "The Fed pays Treasury the full face value of coins that it buys, and Treasury then allocates the payments to the Mint…All Mint revenues are deposited into its Public Enterprise Fund, including receipts from the Fed from the sale of circulating coins at face value, and all expenses for making coins are paid out of the Public Enterprise Fund...At least once a year, any amount that is determined by the Mint to be in excess of the amount required by the Public Enterprise Fund is to be transferred to Treasury's general fund."

Besides avoiding this, it is easy to see from the cover page why this highly relevant report was not even cited in the 2011 report:

> "However, the Mint is still not explicitly stating whether the retained amounts are in excess of the estimated operating costs for the following year and, if so, it is not explaining how the retained earnings will be used, as required by law.

In an attached letter, the Treasury torturously disputed the requirement to say how its excess funds were spent (page 38):

> [T]he GAO is recommending that the Mint provide information on the specific purposes for which retained amounts of earnings will be used. The PEF legislation requires reporting if earnings are retained that exceed the following year's estimated operating costs (i.e., "the amount on deposit in the PEF at the end of the period covered by the report exceeds the estimated operating costs of the PEF for the 1-year period beginning at the end of such period"). 31 U.S.C. § 5134( c)( 5)(B)(ii).

[44] A less conservative approach (resulting in a slightly higher recovery of interest relief per coin-swap) would adopt the overall or target reserve ratio, instead of this fraction. And this fraction itself could be better adjusted, e.g. 1990 data should be used. Whatever adjustment is optimal, the difference would not meaningfully alter the order-of-magnitude conclusion drawn.

[45] Financial Audit: Bureau of the Public Debt's Fiscal Years 2011 and 2010 Schedules of Federal Debit (November 2011, GAO-12-164). Pages 24, 25.

Applied to the 2011 report, the 81.5% omitted interest relief per coin-swap uses the figures on page 32. The 1.5 ratio replacement generated \$(19.7-10.8) = \$8.9 billion extra interest relief, from the 50% added coins. Thus, from the 100% replaced coins, the amount omitted 2*8.9*81.5% = **\$14.5 billion** over the 30 years

### 5. The New Tricks to Discount Interest Relief from Coin-Swaps Miss 81.5% of the Point.

*I'll have grounds more relative than this—the play's the thing wherein I'll catch the conscience of the King.*
[Shakespeare, *Hamlet*, Act 2, Scene 2]

We have seen how the 2011 report updated its trick for not stating the accumulated tax revenue gain as a government benefit, from the guilty underlining of two words in 1990, to the brazen assertion that the Fed is part of the government. Is the same degeneration evident in the trick for concealing interest relief benefits? Yes indeed.

Here is how the 1990 report properly explained the moments of tax recognition and actual value (page 50):

> Although the Treasury recognizes seigniorage at the time coins are manufactured, it does not actually obtain value for newly manufactured coins until they are deposited with the Federal Reserve banks.

The accounting example given (quoted at the start of Part III, section 2) made it plain that the Treasury's account at the Fed is credited with \$1 per coin, upon delivery to the Fed.

Here is the equivalent excerpt from the 2011 report (page 27, emphasis added):

> Currently, about 1 billion of the approximately 4 billion \$1 coins that the Mint has produced since it started minting the Susan B. Anthony \$1 coin in 1979 are stored with the Federal Reserve. We do not count these coins as contributing toward the net benefit to the government because these coins are not being held by the public, and therefore, government wide, there has not been a financial gain. The Mint recognizes the seigniorage as soon as the coins are transferred to the Federal Reserve for initial distribution, even if the coins do not necessarily enter active circulation. However, *because the Treasury will not have a reduced need to issue debt until coins are put into public circulation*, we treat the actualization of seigniorage as occurring at that time. It is only when debt issuance is reduced that the benefit of saved interest expense begins to accrue."[46]

This is new, for two reasons. First, the moments of recognition and actual value are both put back a notch. The Fed is so sick of looking after coins it can't push, that its model now says that the Treasury cannot acknowledge any benefit until the Fed has purged itself of its non-interest bearing money.

Second, to accomplish this, the Fed is again deemed part of the government. Until the Fed has got rid of its coins, the government can't possibly have benefitted.

If there were really such a hold on Treasury benefits, there would be no need for the "debt issuance" argument that sets another high watermark for la-la-land insults to public intelligence. Debt issuance is reduced by \$1 whenever the Treasury calls off a bond sale. The Fed can do its 18.5% bond sale whenever it wants. Both can happen in sync, before the coin is swapped for a note.

More importantly, except for the new rule that pretends there are no cash Treasury benefits while coins are being stored by the Fed, this trickery is beside the point. Even assuming that the Treasury and Fed are as indistinguishably locked in governing together as the Fed is privately-owned, dividend-paying, and independent, the error remains. The government as a whole recovers the omitted 81.5% of interest relief. It does not come from the Fed.

Coinage is the Fed's Achilles' heel. Stay tuned. Occupy Wall Street. These are the times.

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[46] Of course it was the 2011 report that first engaged me. And this core paragraph is what I had to figure out. I really didn't have a chance. I had to go through the earlier reports.