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The Model Coinage and Minting Act

United States Congress

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THE MODEL COINAGE AND MINTING ACT

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THE MODEL COINAGE AND MINTING ACT

An Act to revise, modernize, and codify the statutes relating to coinage and the Bureau of the Mint

TITLE I — SHORT TITLE, PURPOSE, AND DEFINITIONS

SEC. 101. SHORT TITLE

This Act may be cited as the "United States Mint Act of 1978."

SEC. 102. LEGISLATIVE INTENT

The purpose of this Act is to revise, alter, modernize, and codify the statutes pertaining to coinage, the Bureau of the Mint, and related areas.

Comment: This section is designed to provide a precise statement of legislative intent for the benefit of administrators within the Treasury Department and the Bureau of the Mint, as well as for the education of legislators and the general public as to the scope of the legislation. Its specific purpose is to avoid future controversy over the intent of the legislation, a problem with prior "codifications" in this field.394

SEC. 103. DEFINITIONS

For purposes of this Act:

1. The term "Secretary" means Secretary of the Treasury;

2. The term "Director" means Director of the Mint;

3. The term "Bureau" means Bureau of the Mint;

4. "Commission" means Joint Commission on the Coinage;

5. "Subsidiary coin" means all coinage with a face value of ten cents, up to but not including the dollar;

6. "Minor coin" shall be all coin with a face value below ten cents;

7. "Numismatic item" shall mean anything which has been a part of a coinage of issue which has been used in exchange or has been used to commemorate a person, object, place or event. Such term includes coins, tokens, paper money, commemorative medals, and proof coins and uncirculated mint sets manufactured by the Bureau;

8. "Proof coins" are coins prepared from blanks specially polished and struck, not intended for circulation but as specimen coinage for presentation and sale according to such regulations as may be determined by the Director;

9. "Uncirculated mint sets" are specially packaged coin sets containing one coin of each denomination struck at each of the United States Mints, not intended for circulation but as specially packaged coinage for sale according to such regulations as may be prescribed by the Director;

10. "Bullion" means refined gold, silver, or other precious metal.

11. "Clad coin" means a coin composed of three layers of metal, the outer two being identical in composition and metallurgically bonded to an inner layer;

(12) "Core" means the inner layer of a clad coin;
(13) "Cladding" means the outer layer of a clad coin;
(14) "National mint medal" means a medal struck by the United States Mint, or by others from dies furnished by the Secretary, pursuant to an Act of Congress authorizing the striking of such medal.

Comment: This section adopts in part the definitions used in 31 U.S.C. § 398 (1970), as well as some used in the Code of Federal Regulations. While the distinctions made in subsections (5) and (6) were more important in the past, they have relevance in this Act because of the section 305 limitations on legal tender and redemption. The definition of "numismatic item" in subsection (7) is similar to that promulgated under the Hobby Protection Act, 16 C.F.R. § 304.1(f) (1977), but has been changed to encompass proof coinage and uncirculated sets which, under the exacting language of the statute, might be construed to exclude their coverage. On the matter of national mint medals, this section must be read in tandem with section 207, the subsections of which provide that when an Act of Congress authorizes the creation of such a medal, the Secretary may design and/or strike the medal or cause to be designed and/or struck outside the Department of the Treasury. The Secretary is required to retain control over the die used to create the national medal.

TITLE II — BUREAU OF THE MINT

SEC. 201. BUREAU OF THE MINT

There shall be a Bureau of the Mint in the Department of the Treasury, the chief officer of which shall be the Director of the Mint. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve until removed by the President.

Comment: This section generally re-enacts the provisions of the Coinage Act of 1873 creating a Bureau of the Mint. Changes include the following: the term of the Director has been changed from five years to service for an indefinite period in the discretion of the President. This gives recognition to the fact that the post of Director is a political appointment. It also specifically eliminates the requirement that the President communicate to the Senate the reason for removal of a director before the end of a five-year term. The section corresponds in part to section 101 of the 1973 Mint revision proposal. Should it be decided to make the post of Director a career position, the second sentence should be removed and replaced with the following: "The Director shall be selected, appointed, and employed by the Secretary subject to civil service and classification laws."

SEC. 202. DIRECTOR'S DUTIES

The Director shall have general supervision over all mints and assay offices, shall make an annual report to the Secretary on their operations which shall be printed and offered for sale by the Government Printing...
Office, and shall perform such other functions and duties as may be prescribed by the Secretary.

Comment: This section delineates the supervisory role of the Director, who for a number of years has not been actively involved in the day-to-day operations of the Mint. It differs from the 1973 proposed revision in that the latter gave the Secretary total discretion in prescribing functions and duties, and through omission apparently eliminated the requirement of an annual report. This useful compilation of material of historical import for the researcher and scholar should be continued. Early mint reports were invaluable in preparation of this Article.

SEC. 203. OTHER OFFICERS

The officers of the Bureau of the Mint, beside the Director, shall be a Deputy Director and such Assistant Directors of the Mint as may be selected, appointed, and employed by the Secretary subject to civil service and classification laws.

Comment: This section gives recognition to the structure that has been used successfully by the Mint since 1971, with a Deputy Director responsible for day-to-day operations, and Assistant Directors each of whom is compartmentalized into specific areas of responsibility. These areas have not been more formally drawn in order to prevent the creation of a rigid structure incapable of change.

SEC. 204. EMPLOYEES

The employees of the Bureau, each of whose duties and responsibilities shall be prescribed by the Secretary, include the superintendents of the several mints, assayers, a chief engraver, engravers and such other persons necessary to carry out the functions of the Bureau, all to be selected, appointed, and employed by the Secretary subject to the civil service and classification laws.

Comment: This section makes the posts of superintendent, assayer, and chief engraver career or civil service positions, as opposed to the current system which requires the advice and consent of the Senate. The appointment of employees by the Secretary is consistent with 31 U.S.C. § 266 (1970), and is similar to section 102 of the 1973 Mint revision proposal.

SEC. 205. MINT AND ASSAY OFFICES

(a) The several mints and assay offices shall be:

(1) The United States Mint at Philadelphia;
(2) The United States Mint at Denver;
(3) The United States Mint at San Francisco;
(4) The United States Assay Office at New York.

(b) The United States Mints at Denver and San Francisco, and the United States Assay Office at New York, may be operated from either

398 The structure in the Mint since 1972 has been Director, Deputy Director, and Assistant Directors of Administration, Planning Analysis, Public Services, Production, and Technology. See The Mint Reorganizes, Mint Observer, April, 1972, at 1, 3 (Treas. Dept. Publication). See also [1976] DiR. OF THE MINT ANN. REP. 5.
single or multiple locations within those cities and counties of the surrounding Standard Metropolitan Statistical Areas.

(1) Except as provided herein, nothing in this section shall prohibit the Secretary from moving the principal operations, or all operations, of the United States Mints at San Francisco and Denver within those respective cities or the counties of the respective surrounding Standard Metropolitan Statistical Areas.

(2) Movement of operations under the foregoing subsection shall take effect when the Secretary communicates such an intent to Congress and such request is not expressly negated within sixty (60) days.

(3) A request by the Secretary for annual appropriations shall not be deemed a communication within the meaning of the preceding subsections.

(4) Movement of a United States Mint pursuant to subsection (b) shall not be deemed a change of its location for purposes of administration regulation.

(c) The Secretary is authorized to maintain and use such additional facilities as may be necessary for the operation of the Bureau.

Comment: This section, subsections (a) and (c) of which closely parallel section 103(a) and (b) of the 1973 revision, restates in part 31 U.S.C. § 261 (1970), and gives recognition to the renewed status of the operations in San Francisco as a minting facility, which function it has performed since 1965. It eliminates the clumsy language of 31 U.S.C. § 283 (1970). Section (b) is designed to give flexibility in the selection of a new Denver Mint if such a facility is deemed desirable. The subsection also recognizes the status of the separate packaging facilities in San Francisco, and acknowledges that current crowded conditions at the San Francisco Assay Office may result in a need to expand operational facilities. Subsection (b) also recognizes the West Point facility, operational as a mint since 1975 (1.5 billion cents were produced there, ostensibly as part of an adjunct facility of the Philadelphia Mint). This provision would end the charade and place the facility back under jurisdiction of the New York Assay Office. This section also permits more than one minting facility to be operational within the same city or SMSA, a factor which could prove useful in times of shortage or changeovers in operations, or as a matter of general course.

SEC. 206. GENERAL FUNCTIONS OF MINTS AND ASSAY OFFICES

(a) Coins, medals, and numismatic items may be manufactured, and bullion, coinage metals, and numismatic items processed and stored at United States Mints and Assay Offices.

400 See Proposal Relating to Construction of Additional Mint Buildings: Hearings on S. 1339 and H.R. 5620 Before the Senate Comm. on Banking, Housing and Urban Affairs, 94th Cong., 2d Sess. (1976). This author's views may be found id. at 171-73. See also COMPTROLLER GEN. OF THE U.S., REPORT TO THE SENATE COMM. ON BANKING, HOUSING AND URBAN AFFAIRS, ALTERNATIVES TO CONSTRUCTING A NEW DENVER MINT (1976).

401 See note 107 supra. A personal inspection by this author of the San Francisco facilities in 1975 disclosed crowded conditions, despite admirable performance by Mint personnel.

(b) Numismatic items may be processed, stored, and sold at such locations and in such manner as may from time to time be prescribed by the Secretary.

(c) The principal functions of the Assay Offices established under this Title shall be to refine, process, and store bullion, coins, and coinage metals.

(d) Minor coins may be struck at other than United States Mints and Assay Offices if the Secretary, in order to meet a shortage of coin, by regulation so permits. Coins so struck will be produced under such conditions and circumstances as the Secretary by regulation prescribes.

Comment: Parts (a), (b), and (c) closely parallel the first clause of section 104 of the 1973 revision, and delineates the functions of the Mints and Assay Offices of the United States. It adds authority to produce certain numismatic items, now found as part of 31 U.S.C. § 324h (Supp. V 1975). It permits the storage, processing and sale of these items at locations designated by the Secretary. Coinage production at Assay Offices is permitted, provided it is not the principal function of the office; the rationale behind the prohibition in 31 U.S.C. § 278 (1970) is no longer applicable given the current use of the West Point facility, an adjunct of the New York Assay Office,404 and the San Francisco Assay Office pursuant to 31 U.S.C. § 283 (1970) as quasi-mints producing vast quantities of coinage. San Francisco additionally produces proof sets for the Mint.

In subsection (d), a new provision has been added to permit the Secretary of the Treasury to contract out the production of minor coinage. Though coining is traditionally the power of the sovereign, it may prove useful in the future to allow at least the nominal coin of the realm to be produced at facilities other than the Mint — presumably if a coin shortage or excessive demand upon Mint production capabilities was in effect.

SEC. 207. GENERAL DUTIES AND FUNCTIONS OF THE SECRETARY IN CONNECTION WITH THE BUREAU

In connection with the operation of the Bureau, the Secretary is authorized to:

(a) Perform all operations necessary to distribute, manufacture, or cause to be manufactured without the Treasury Department coins, medals, national medals, and other numismatic items, including the coinage of foreign countries subject to the provisions of section 304;

(b) Purchase, sell, receive, assay, melt, treat, refine, and keep monies, coin, bullion, and coinage metals;

(c) Prepare, store, and subject to such conditions as he may deem appropriate permit others without the Treasury Department to prepare original and working dies for the manufacture of medals;

(d) Prepare and store original working dies for the manufacture of coins;

(e) Enter into and perform such contracts as deemed appropriate to carry out the functions of the Bureau;

(f) Establish such charges as deemed appropriate for the services and products of the Bureau, except as provided herein;

(g) Prescribe the functions and duties of the Director;
(h) Prohibit, curtail, or regulate the exportation, melting or treating of any coin of the United States by such rules and regulations as he may prescribe;

(i) Design, construct, equip, and furnish such buildings and structures necessary to the operations of the Bureau, and to thereafter operate and maintain them, including furnishing of utilities, all from authorized appropriations, provided:

(1) That nothing in this section shall authorize the construction of a public building as defined in the Public Buildings Act of 1959, and

(2) That all functions with respect to repair and improvement shall be vested in the Administrator of the General Services Administration.

(j) Perform such other functions and issue such rules and regulations as deemed appropriate to carry out the provisions and intent of this Act;

(k) Permit, by regulation, the striking of minor coins by private contract outside the confines of the United States Mints and Assay Offices.

Comment: This section uses as its basis section 105 of the 1973 revision proposal. It permits the use of outside contractors for all functions, including coinage, medal, and national medal production through subsections (a), (e), and (k) when read in connection with section 206(d). This authority is broader than that now permitted by 31 U.S.C. §§ 317d & 394 (1970), or section 105(d) of the 1973 revision. The use of outside contractors, though disapproved by the Bureau for coining purposes, could nonetheless prove necessary and useful in times of coin shortage. For commentary on national medals, see Title V. Another provision relating to national medals is found in subsection (c), which would permit a national medal to be designed outside the Treasury Department provided control over the die was retained by the Secretary. Subsection (b) in part continues the long-time practice of the Mint of receiving deposits of precious metal for refinement under 31 C.F.R. pt. 90 (1977), and permits the Secretary to collect for melting all worn and uncurrent coin of the United States as now permitted by 31 U.S.C. § 317c (1970).

Subsection (h) is designed to be read in conjunction with section 306 of this Act (melting and treating of coins), while subsection (g) is intended to give effect to section 202. Subsection (i) covers the same ground as 31 U.S.C. §§ 291-294 (1970) but does not limit the amount of authorized appropriation, which should be set periodically by Congress. The limitations of subsections (i)(1) and (2) conform with existing law. In subsection (j) a broad provision permits the Secretary to undertake such functions as are in keeping with the legislative intent of the Act. Specifically, this is intended to allow the Secretary to retain authority in certain areas — for example, 31 U.S.C. § 342 (1970) (cleaning and reissuance of minor coins), 31 U.S.C. § 317e (1970) (disposition of silver dollars), 31 U.S.C. § 326 (1970) (exchange of gold coin for gold bars), 31 U.S.C. §§ 374, 375 (1970) (receipt and recoinage of Spanish and Mexican coinage), and 31 U.S.C. § 459 (1970) (silver coin legal tender provision) — which are currently obsolete and hence deleted from expressly authorized action, but which could at some future time prove useful. Subsection (j) also permits the Secretary to undertake measures not authorized under previous law or under this Act in the

405 This was proposed as a solution in H.R. REP. No. 194, 89th Cong., 1st Sess. 30 (1965), and rejected because of Treasury objections to private control over coinage.
event that contingent circumstances make such measures necessary, provided the actions are within the spirit and intent of this Act. When read in concert with subsection (b) and Title VIII, subsection (j) effectively eliminates all provisions in current coinage law pertaining to bullion regulation not expressly provided for by the Secretary in rules or regulations.

TITLE III — COINS AND COINAGE

SEC. 301. Denominations and Specifications

(1) The denominations of the coinage of the United States shall be:
   (a) one cent;
   (b) two cents;
   (c) five cents, or nickel;
   (d) ten cents, or dime;
   (e) twenty-five cents, or quarter dollar;
   (f) one dollar, and
   (g) such other denominations previously issued under Acts of Congress as may be approved by the Secretary, subject to the following:
      (1) The denominations other than those in subsections (1)(a) through (1)(f) inclusive may be manufactured for circulation when Congress has been informed at least sixty days prior to the introduction of such pieces, and Congress neither
         (i) specifically disapproves of such proposal, or
         (ii) requests a delay of up to ninety days for such additional consideration as may be deemed necessary.

      (2) The Secretary is directed to take into consideration the use of such denominations issued pursuant to subsection (1)(g) in coin-operated mechanical devices before recommending change, and shall secure in writing the opinion of the Joint Commission on the Coinage on such matters.

(2) Coins may be manufactured pursuant to subsection (1) subject to the following specifications:
   (a) The dollar shall be a clad coin no more than 30.67 millimeters in diameter, nor less than 24.257 millimeters in diameter, and shall weigh not less than 5.7 grams, subject to the following conditions:
      (1) In determining the size, weight, and thickness of the clad dollar, the Secretary shall consult with the Commission which shall consider the effect of such coin in coin-operated vending devices;
      (2) The diameter of the clad dollar as determined by the Secretary shall not be changed for a period of twenty-five years without the approval of Congress.
   (b) The quarter shall be a clad coin of 25.257 millimeters in diameter, and shall weigh 5.67 grams.
   (c) The dime shall be a clad coin of 17.907 millimeters in diameter, and shall weigh 2.268 grams.
   (d) The five cent piece shall be 21.205 millimeters in diameter, shall weigh 5 grams, and shall contain an alloy of 75 percent copper and 25 percent nickel, except as provided herein.
(e) The two cent piece shall be of such diameter, weight, and metallic composition as the Secretary shall determine, provided:

1. That the Secretary shall consult with the Commission, which shall respond in writing within ninety days, before determining the specifications in subsection (e);

2. That in making the determinations described in subsection (e), the Secretary shall consider the impact, if any, on coin-operated vending devices;

3. That the Secretary shall prescribe the standards required by subsection (e) no later than one year after passage of this Act.

(f) The cent shall be 19 millimeters in diameter, shall weigh 3.11 grams, and shall contain an alloy of 95 percent copper and 5 percent zinc, except as herein provided.

(3) Coins manufactured under authority of subsections (1) and (2) of section 301 may be altered in size, weight, and metallic composition:

(a) Whenever in the judgment of the Secretary or Commission such action is necessary to assure an adequate supply of coins to meet national needs, or

(b) Whenever the Secretary prescribes such new compositions, sizes, and weights, provided:

1. That an order is issued stating the pertinent physical properties of the coins, including content, weight, dimensions, shape, and design. In determining such physical properties, the Secretary must consult with the Commission and take into consideration the use of such coins in coin-operated devices, and

2. That the Secretary notifies in writing on the same day as the issuance of the order under subparagraph (b)(1), the Committee on Banking, Finance, and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, regarding the content of the order, and a period of sixty calendar days of continuous session of Congress, commencing after the date of such notification, elapses.

(i) For purposes of this subsection, the continuity of session is broken only by an adjournment of Congress sine die, and

(ii) The days on which either house is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty day period.

4. The weights of coins struck pursuant to this Title may vary from the prescribed weight in such amounts as shall be prescribed by regulation of the Secretary.

Comment: The scope of this section is broad, for it attempts to define the denominations and specifications of United States coinage for both the present, and perhaps more importantly, the future. While portions of the section appear nowhere in current coinage law, its equivalent in the 1973 omnibus revision would be section 201, by far the most comprehensive and thorough section of that proposal. By way of contrast to current coinage law, it encompasses the following sections at least in part: 31 U.S.C. § 317 (Supp. V 1975) (minor coins, weight, and alloys delineated); 31 U.S.C. § 391 (1970 & Supp. V 1975) (specifications for clad coinage); 31 U.S.C. § 350 (1970) (adjustment of weight...

Under this section of the Model Act, the standard coin denominations would be the cent, two cent piece, nickel, dime, quarter, and dollar. The two cent piece is a former issue, struck from mid-Civil War until passage of the Coinage Act of 1873, re-introduction of which would serve the purposes of easing the burgeoning production requirements for one cent pieces, and permitting greater utility of change-making between one and five cents. The former would be accomplished by reducing proportionately the number of one cent pieces coined to the value of two cent pieces struck, a result not unlike that accomplished through the reissuance of the two dollar bill.

Eliminated as a standard denomination is the fifty cent piece or half dollar, though it presumably could be issued under authority of section 301(1)(g). If it were continued as standard coin issue, the denomination could not be used for commemorative coinage under section 303 because subsection (5) of that section prohibits concurrent issuance of commemorative coin and coin of the realm of the same denomination. The reason for elimination of the half dollar has been stated in the text, and is a major recommendation which would not only cut mint production requirements by about three percent, but would permit a more concentrated effort on other denominations. It is perhaps of interest to note that in Research Triangle Institute's survey of the coin preferences of various commercial groups, the five dollar coin rated high among automatic merchandisers, manufacturers of coin equipment, and transportation system operators. The only higher rating was that given to the present system of coinage with the cent deleted.

Specifications for the coins issued pursuant to section 301(1)(g) are spelled out in subsection (1) and (2) of that section. Generally, this permits all other coin denominations previously authorized by Congress — half cent, three cent, twenty cent, and fifty cent, two and a half dollar, three dollar, five dollar, ten dollar, and twenty dollar — to be manufactured upon authorization by the Secretary unless Congress specifically disapproves within a sixty day period. The language adopted is substantially similar to that employed in 31 U.S.C. § 317(c) (Supp. V 1975), which authorizes a conditional compositional change in the one cent piece. Notification to Congress would be directed to the Speaker of the House, the President of the Senate, and the chairmen of the respective standing committees on banking. Additionally, in making any determination concerning new coin issues, the Secretary would be required to consult with and secure in writing the opinion of the Joint Commission on the Coinage.

Specifications for dollars struck under this section would permit the Secretary to set a diameter between that of the current quarter and half dollar, a weight of not less than that of the current quarter, and a thickness which would

406 Act of April 22, 1864, ch. 64, 13 Stat. 54.
409 See notes 167-82 supra.
410 2 RTI STUDY, supra note 26, at 3-25 tab. 3-11.
411 This includes the half cent, three cent piece, 20 cents, 50 cents, $2.50, $3, $5, $10, and $20. Those not included are used in the Model Act.
have to reflect the prospective uses of the coin in vending machines. As previously discussed, the current dollar is inadequate for modern needs, and reduction of the size of the dollar should be considered as a means of production efficiency and as a cost-saving substitute for the paper currency note of the same denomination. The provision dealing with the twenty-five year requirement on new diameters of the dollar, section 301(2)(a)(2), is designed to permit coin operated vending machine manufacturers to make optimal use of the new denomination without fear of sudden change at an unknown date.

The subsection dealing with the two cent piece is substantially similar to that of the dollar, with specifications set by the Secretary under certain conditions, but with the added requirement of section 301(2)(c)(3) that the Secretary prescribe standards for the two cent piece within a one year period from passage, a means of ensuring production by the Bureau of a two cent coin. Specifications for other denominations are also given.

Under the Model Act, the Secretary of the Treasury would also have authority to revise and change the size, weight, and composition of any coin manufactured under section 301(1) and (2) provided that certain preconditions are met, including notification of the pertinent members of the banking committees of each House of Congress. This would permit a compositional change, such as the 93 percent copper, 7 percent nickel change in the five cent piece proposed by Research Triangle Institute as a viable alternative to the current coin of that denomination, or an aluminum cent.

Finally, the Secretary is authorized to note by regulation the extent to which a coin may vary from its prescribed weight, which is important not only for purposes of vending machine operation, but also as a means of insuring accurate quality control. This would also be utilized under either of the assays contemplated by section 404 of the Model Act.

SEC. 302. INSCRIPTIONS ON COINS

(1) Designs.

(a) Coins of the United States shall be of such designs as the Secretary may approve, subject to the requirements of this section.

(b) No change in the design or die of any coin, except as provided herein, shall be made more often than once in twenty-five (25) years, from and including the year of the first adoption of the design, model, die, or hub for that coin, except:

(1) For coins struck pursuant to section 301(3) of this Title, for which the period shall begin to run following the time prescribed in section 301(3)(b)(2);

(2) When the Secretary authorizes coinage pursuant to section 301(3) of this Title, the Director may be authorized to permit the preparation of new dies or designs by the Engraver, or by such other private individuals as deemed appropriate.

(3) Commemorative coinage authorized pursuant to section 303 of this Title shall be struck only for a one year period following authorization.

(c) The Secretary is authorized to conduct a design competition, utilizing monies appropriated by law, for coinage authorized by section
301(3) of this Title, including coinage prepared under authority of section 302(1)(b)(2) and section 303.

(2) Inscriptions.

(a) Upon one side of all coins of the United States shall be an impression emblematic of Liberty with an inscription of the word "Liberty," and the motto "In God We Trust."

(b) Upon the reverse side shall be the figure or representation of an eagle, with the inscription "United States of America," "E Pluribus Unum," and a designation of the value of the coin, provided however:

(1) That the figure of the eagle may be omitted from all coins denominated ten cents and below, and from coins struck pursuant to section 302(1)(c) of this Title,

(2) That mint marks may or may not be used at the discretion of the Secretary, and

(3) That such requirements shall not be effective on current coin of the realm or coins struck pursuant to section 301(3) of this Title.

(3) Dating of Coinage.

(a) Coinage of the United States, except as provided herein, shall be inscribed with the date of the year in which they were coined.

(b) Subject to such regulations as the Secretary may promulgate, proof coins and uncirculated mint sets, and commemorative coins authorized under section 303 of this Title, may be inscribed with the last preceding year for a forty-five day period following the start of each calendar year.

(c) Whenever the Secretary determines that there is a shortage of coins in any denomination, he may direct by order published in the Federal Register that coins of that denomination be inscribed with the preceeding year inscribed on coins of that denomination.

Comment: This section generally covers 31 U.S.C. § 324 (1970), 31 U.S.C. § 324b (1970), 31 U.S.C. § 324d, 324e (Supp. V 1975), and is equivalent to section 202 of the 1973 revision with some additions. Provisions concerning the dating of .900 fine silver coins have been eliminated as obsolete for the last such coin was struck a dozen years ago, while the dual-dating provision found in 31 U.S.C. § 324i (Supp. V 1975) has been rendered obsolete by its own wording and is hence unnecessary surplusage.

The intent of this section is to give the Secretary flexibility in choosing designs for any new coins, or in determining new coin sizes which may be authorized, while nonetheless requiring the use of certain phrases and descriptions on the coinage. It should be noted that the impression emblematic of Liberty has a non-respective interpretation, and section 302(2)(b)(2) is specifically designed to permit discretionary retention of mint marks, which prerogative the Secretary has had since 1835.

Section 302(1)(c) permits the Secretary to conduct a design competition, utilizing funds appropriated by law, for new coin denominations or sizes authorized under section 301(3) of this Title, and it is clear from the wording that while a twenty-five year requirement is retained, no such design retention regulation is mandatory when a size-reduction is effected or when a new denomination previously issued is once again manufactured.
Section 302(3)(b) permits the Mint to continue the informal practice of finishing back-orders for proof and uncirculated sets of the preceding year in the first several weeks of the subsequent calendar year. In the author's opinion, this practice is questionable under existing law unless the Secretary of the Treasury formally issues the appropriate declaration required under 31 U.S.C. § 324 (1970). Since it is of practical necessity to complete the previously accepted and paid orders, this section gives the practice proper legislative sanction. The same basic idea has also been made applicable to all commemorative coinage issues authorized by section 303.

References to bicentennial dual-dating—the use of “1776-1976” on certain coins—has not been included because on January 1, 1977, their issuance lapsed under order of the Secretary. Dual-dating would nonetheless be permissible under the Model Act should the Secretary so direct.

SEC. 303. COMMEMORATIVE COINAGE

(1) The Commission may recommend, and the Secretary may issue, up to three differently-designed commemorative coins each year.

(2) Designs for commemorative coinage authorized pursuant to this section shall be determined by the Joint Commission on the Coinage in consultation with the Commission on the Fine Arts.

(3) Such coins shall be a legal tender in the amount of their face value and shall, notwithstanding any other provision of law, be redeemable into lawful currency of the United States at their nominal value.

(4) The Secretary may authorize commemorative coinage to be struck in clad metal, or in such other metals as the Secretary may by regulation designate.

(5) The Secretary may authorize commemorative coinage to be of any denomination permitted under section 301(g) of this Title that is not a circulating coin of the realm.

(6) Commemorative coinage manufactured pursuant to this section may be struck as proof coins or in such other manner as the Secretary may by regulation prescribe, and shall be sold at a premium by the Secretary.

(7) Profits derived from the sale of commemorative coinage shall accrue to the General Fund of the Treasury.

Comment: This section is designed to permit the issuance of non-circulating commemorative coinage by the Secretary. Between 1892 and 1954 some 144 commemorative coins, including different dates and mint marks, were manufactured by the Bureau of the Mint. Under this section, up to three different commemorative coin issues could be manufactured by the Mint each year. Selection of designs would be made by the Joint Commission on the Coinage in consultation with the Fine Arts Commission, presumably utilizing an advisory committee similar to that used by the Postal Service in selecting the commemorative stamps to be issued periodically each year.

Under this section, commemorative coins could only be those coins permitted under section 301(g), eliminating the frequent argument that confusion among the public results from their issuance. By giving legal tender status to the commemorative it is distinguished from a medallion, but by requiring its sale at a premium the actual likelihood that such a coin will circulate is...
minimized. It is also clear from section 303(4) that in addition to clad-metal, the Secretary may concurrently strike the same commemorative piece in precious metals, including gold and silver, as well as such other metals as may be designated. It should also be noted that previous commemorative issues include the following denominations: twenty-five cents and silver dollar, both of which would be impermissible under the Model Act by virtue of their inclusion in section 303; and the fifty cent piece and the one dollar, two and a half dollar, and fifty dollar gold pieces, all eligible denominations. While 31 U.S. § 315b (1970) is repealed by section 801(23) of this Act, there remain numerous other provisions of the Gold Reserve Act of 1934 which could restrict the legal tender status of a gold commemorative coin. The second clause and appositional phrase in section 303(3) is designed to skirt the restrictions of that Act without repealing or amending it in whole or part. There is no provision comparable to this section in the 1973 revision for the Treasury continues to oppose commemoratives. There is nothing mandatory about this section, however. It merely permits the Secretary to strike revenue-producing coins. As distinguished from prior issues of commemoratives, profits would accrue to the General Fund of the Treasury.

SEC. 304. COINAGE FOR FOREIGN COUNTRIES

The Secretary may manufacture coinage, including proof coins, for any foreign country applying for same, according to the specifications provided by such country, provided however that fees not less than the estimated cost of such coinage, including but not limited to labor, materials, and use of machinery, are charged.

Comment: This section generally re-enacts with minor changes 31 U.S.C. § 367 (1970), and is close in terms to section 203 of the 1973 revision. United States Mint production for foreign countries has been voluminous since the first authorization in 1874. Changes in existing law provide first that the coinage struck will conform to specifications provided by the foreign country, as opposed to the currently-used phrase "legally prescribed standards and devices," which would probably preclude the striking of an authorized but anticipatory issue or any pattern coinage, and second, that in figuring cost, overhead is to be included. Deleted entirely is the provision preventing striking when such interferes with manufacture of United States domestic coin, on the ground that a foreign nation does have a substantial reliance interest in having its dies at the United States Mint.

SEC. 305. LEGAL TENDER

(a) Except as provided herein, all coin and currency of the United States whenever issued or coined, and including Federal Reserve Notes and circulating notes of Federal Reserve banks and national banking associations, shall be legal tender for the payment of all debts, public and private, public charges, taxes, duties, and dues.

(b) Minor coins of the United States shall be legal tender in amounts not exceeding two dollars in any one payment.

(c) Subsidiary coins of the United States shall be legal tender in amounts not exceeding ten dollars in any one payment.

(d) Dollar coins, and coins not encompassed by subsections (b) or (c) but authorized by previous law or pursuant to section 301(1)(g) or section 303 of this Act, shall be legal tender in amounts not exceeding fifty dollars in any one payment.

Comment: This provision generally encompasses the following sections of the existing coinage law: 31 U.S.C. § 460 (1970) (minor coins); 31 U.S.C. § 459 (1970) (subsidiary silver coins); and 31 U.S.C. § 392 (1970) (general legal tender definition). A substantially similar provision is found in section 207(a) of the 1973 revision. The distinguishing features in this provision are found in subsections (b) through (d), which have been tailored to conform with commercial realities — the cent is wrapped for bank use in quantities of fifty pieces per roll, while the nickel is tendered in forty-unit rolls. By utilizing a two-dollar maximum tender, which is designed to prevent a time consuming and laborious process for single standard transactions, a person would be permitted to make a legal tender of a roll of five cent pieces, or four rolls of cents. The higher amount, and the reference to minor coinage rather than denomination, are designed intentionally to give flexibility should the Secretary decide, pursuant to section 301(1)(g) of this Act, to issue additional coinage denominations. Similarly, the subsidiary denominations, now dime through half dollar, could be tendered in ten-dollar incremental units, the commercially reasonable manner in which they are now wrapped. The final subsection would anticipate a smaller dollar coin and again, for commercial convenience, would not require acceptance above a fifty-dollar limitation which is admittedly an artificial cut-off point. Moreover, this subsection would also permit commemorative coin issues to be legal tender up to the limitation. It should be noted that because of the requirement that commemoratives be sold for more than their face value there is little likelihood that such a provision would be used.

SEC. 306. EXPORTATION, MELTING, OR TREATING OF COINS

(a) Whoever knowingly violates any rule, order, regulation, or license issued pursuant to section 207(h) of this Act shall be fined not more than $10,000, or imprisoned for not more than five years, or both.

(b) There shall be forfeited to the United States any coins exported, treated, or melted in violation of any order, rule, regulation, or license issued under section 207(h) of this Act, and any metal resulting from such melting or treating.

(c) The powers of the Secretary and his delegates and the judicial and other remedies available to the United States for the enforcement of forfeiture of property subject to forfeiture pursuant to subsection (b) of this section shall be the same as those provided in part II of subchapter C of chapter 75 of the Internal Revenue Code of 1954 (26 U.S.C. §§ 7321-7327) for the enforcement of forfeitures of property subject to forfeiture under any provision of such Code.

Comment: This section re-enacts without substantive change 31 U.S.C. §§ 395(b), 396(a), and 396(b) (1970), and is to be read in tandem with section 207(h) of this Act, a provision designed to give effect to 31 U.S.C. § 395(a) (1970). The provisions and regulations promulgated thereunder, 31 C.F.R.
§ 04.1 et seq. (1976), have thus far been used to prevent the melting, treating, or exporting of silver coin, and more recently of copper cents.

**Sec. 307. Discontinuance of Striking Denominations**

(1) Whenever the Secretary determines that it is no longer in the national interest to strike coins authorized by section 301 of this Act, he may by order discontinue their manufacture in whole or part.

(2) In making said determination, the Secretary shall consider the consequences regarding coin-operated vending devices.

*Comment:* This section continues the authority that has been frequently utilized by the Secretary to control actual coinage production despite its unwritten status, and may be read in tandem with section 207(j) of this Act. The whole or part reference would permit the issuance of collector coins even after an issue was halted for circulation, as was done with the 1970 silver-clad half dollar.\[417\]

**TITLE IV — JOINT COMMISSION ON THE COINAGE, AND ASSAY COMMISSION**

**Sec. 401. Establishment of the Joint Commission on the Coinage**

A Joint Commission on the Coinage shall be established and shall be composed of individuals designated by the Secretary.

**Sec. 402. Composition**

The Commission shall include at least one representative from each division of the Bureau, as determined by the Secretary in consultation with the Director, and at least one member or staff member of the banking committees of the United States Senate and House of Representatives, and, at the discretion of the Secretary, individuals representative of various private interest groups not to exceed eight in number.

*Comment:* The composition of the Commission is intended to reflect that utilized by the joint Federal Reserve-Treasury Study Group,\[418\] as well as to permit involvement by the national vending machine industry. Staff members from the Senate Committee on Banking, Housing, and Urban Affairs and from the House Committee on Banking, Finance, and Urban Affairs would be permitted, since as a practical matter the active involvement of members of Congress is unlikely, but liaison with the banking committees is essential.

**Sec. 403. Duties**

(1) The Commission shall make an ongoing study of the domestic coinage program, and shall review from time to time such matters as: the economic need for coins; the standards for coinage; technological developments in metallurgy; coin-selector devices; the availability of various metals; the need for new coin sizes, shapes, and denominations;


\[418\] *One Cent Coinage,* supra note 25, at ii.
numismatic programs; and other considerations relative to the maintenance of an adequate and stable currency system.

(a) Except as provided herein, the Commission shall meet in plenary session twice each year at dates prescribed by the Secretary.

(b) Members of the Commission shall receive no compensation or per diem expenses for their service, except for public members designated by the Secretary for whom an appropriation has been approved.

Comment: This section is designed to create an ongoing research study of the problems confronting the Bureau which will involve the vending machine industry, the technological and other divisions of the Bureau, and others such as the beneficiaries of the numismatic programs of the Bureau. Through required meetings twice each year, the committee would function continuously as both a problem-forecasting arm and as a ready research staff. This section is also designed to prevent the inactivity which led to the demise of the prior Commission under the terms of the Federal Advisory Committee Act of 1972.419

SEC. 403. DUTIES (CONT.)

(2) The Commission, in consultation with the Commission on the Fine Arts, shall also make such determinations concerning the use and design of commemorative coinage as may be required pursuant to section 303 of this Act. At its discretion, the Commission may establish an advisory committee to aid in this determination, provided however that no compensation is paid to members of such committee, including per diem expenses or remuneration of any kind.

Comment: This subsection has been severed from the original because of the Treasury Department’s opposition to commemorative coinage. By eliminating section 303 of the Act and this subsection, commemorative coinage provisions may be removed without damaging the overall scope and intent of the Act.

SEC. 404. ASSAY COMMISSIONERS [Alternative A]

To secure conformity of the coins to their respective standards of fineness and weight, the Chief Judge of the District Court for the Eastern District of Pennsylvania, the Assayer of the Assay Office at New York, and such other persons as the President shall from time to time designate shall meet annually as assay commissioners at the United States Mint at Philadelphia to examine and test in the presence of the Director the fineness and weight of the coins reserved by the several mints for this purpose. Such meeting shall take place on the second Wednesday in February, and may continue following adjournment if necessary. If a majority of the commissioners fail to attend at any time, the Director shall call a meeting of the commissioners at such other time as may be deemed convenient. If it appears after examination and testing that said coins do not differ from the standard fineness and weight by a greater quantity than is permitted by section 301(4) of this Act, the trial shall be considered and reported as satisfactory. If, however, any greater

deviation from the legal standard or weight appears, this fact shall be
certified to the Secretary who shall rectify the error by appropriate action.

Comment: This section authorizes the continuance of one of the oldest
continually-functioning commissions in the government, dating back to the
first trial of the pyx in 1792. It is similar in language to both 31 U.S.C.
§ 363 (1970), and to section 206 of the 1973 revision. Differences include the
elimination of the Comptroller of the Currency as a statutory attendee, the
definition of statutory weights changed pursuant to section 301(4) of this Act,
and the elimination of the requirement that the President be informed of the
acts of omission resulting in faulty coin. As discussed in the text, the cost
of the commission is minimal, appointment is considered an honor, and its
elimination even in a Model Act is unlikely to stand despite the fact that it no
longer serves a valid public purpose. The alternate provision which follows
would provide a means by which the requisite testing of the coinage may be
secured if elimination of the Assay Commission should be effectuated.

SEC. 404. ASSAY OF COINS [Alternative B]

(1) To secure conformity in the composition and weight of the sub-
sidiary denominations, dollar coin, and other denominations struck by
the several mints, it shall be the duty of the Superintendent of the coin-
ing department to transfer indiscriminately a certain number of pieces
for assay and trial at the Office of the Director of the Mint in Washington,
D.C.

(2) From each delivery of dollars and subsidiary coins by the coining
department, specimen coins for special assay and testing shall be taken
at random as follows: dollars, half dollars, and quarter dollars, not less
than two coins for each 200,000 pieces or fraction thereof delivered;
dimes, not less than two coins for each 400,000 pieces or fraction thereof
delivered; other denominations, such quantities as the Secretary may
direct.

(3) Specimen coins shall be taken by the Superintendent of the
minting facility or his representative in the presence of the assayer or
his representative, and without testing or selection shall be protected
from attrition and enclosed in envelopes which shall be sealed and
labeled to show the place of coinage, the date, number, and amount of
the delivery, and the number and denomination of the pieces enclosed.

(4) Specimen coins so enclosed shall be forwarded promptly to the
Office of the Director of the Mint in Washington, D.C., for laboratory
testing as to their conformity in composition and weight with the re-
quirements of law.

(5) Results of laboratory testing of said specimen coins shall be
forwarded to the officer in charge of the several mints from which they
were received and shall be published in summary form in the Annual
Report of the Director of the Mint.

Comment: This section draws heavily on the current practice of the Bureau,

SEC. 405. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated, and to remain available until expended, such amounts as may be necessary to carry out the purposes of this Title.

Comment: This section is designed to permit the functioning of the Assay Commission and Joint Commission on the Coinage through the annual appropriation process. The approach is identical to that employed in the Coinage Act of 1965 for the Joint Commission on the Coinage, 31 U.S.C. § 304 (1970).

TITLE V — NATIONAL MEDALS, OTHER MEDALS,
AND INSCRIPTIONS ON CERTAIN MEDALS

SEC. 501. NATIONAL MEDALS; STRIKING BY THE UNITED STATES MINT AND OTHERS.

(1) Dies of a national character may be executed by the engraver, and national and other medals struck by the Superintendent of the coining departments of the Philadelphia, Denver, and San Francisco Mints, under such regulations as the Secretary may prescribe.

(2) Dies of a national character authorized by Congress for the benefit of a particular group or organization may be struck at the facilities provided in subsection (1) of this Title, or at the option of the sponsoring group or organization:

(a) Dies executed by the engraver may be released temporarily to a private manufacturer for the production of some or all of the national medals authorized, after which said dies shall be returned to the Secretary; or

(b) Dies may be executed by a private manufacturer, with the approval of the Secretary, and medals produced in accordance with the Act of Congress, provided however:

(1) That ownership of dies so produced shall immediately vest in the United States upon their execution; and

(2) That full payment for such executed dies shall be made by the sponsoring group or organization before the striking of medals is commenced; and

(3) That upon completion of the striking pursuant to Act of Congress or expiration of the period set by such Act, the Secretary is given all such dies, molds, plasters, and models by the private manufacturer, including trial strikes and similar by-products of the medal not given to the sponsoring group or organization.

(3) When the Bureau through its several mints produces a national medal, it shall charge the sponsoring organization or group its actual cost, including labor, machinery use, materials, and proportional overhead, plus an additional charge of fifty percent of the actual calculated cost, which profit shall accrue to the General Fund of the Treasury.
Said charge shall not apply to medals sold by the Bureau as part of its medal list, which shall be regulated as to production, design, and price as the Secretary shall prescribe.

Comment: This section permits the striking of national medals now authorized by 31 U.S.C. § 368 (1970), and indirectly authorized in the 1973 Mint revision proposal by tandem use of sections 104 and 105. The changes from existing law are substantial, though in accordance with several exceptions recently made by Congress. Specifically, each of the mints would be permitted to strike national medals; Philadelphia is currently the only mint permitted to do so, though both Denver and San Francisco recently have been permitted this privilege on a limited basis. Subsection (2) would permit production of national medals by a private manufacturer from dies furnished by the Secretary, or from dies executed by the private manufacturer with the approval of the Secretary. National medals produced by the Bureau for private organizations by act of Congress would, under this section, be sold to the sponsoring organization at the Bureau’s cost, including overhead, materials, and related factors, plus a fifty percent handling charge designed to give greater opportunity to private industry to compete for these orders. Medals on the standard list of the Bureau are not affected by this charge, and may still be authorized and sold pursuant to regulations established by the Secretary.

A private organization may strike a national medal only under the strictest of controls, with ownership of the dies, even those developed wholly without the Bureau, vesting immediately in the United States. This is designed to insure the integrity of the final product. This requirement also applies to those elements used in the production of the national medal, for similar reasons.

A text similar to that set forth was presented in 1977 Oversight Hearings on National Medals, supra note 21, at 20-22. The Treasury was asked to comment on the proposals. Id. at 20. On Oct. 13, 1977, the General Counsel responded in a lengthy three page letter, stating in part as follows: “The Department has serious reservations whether enactment of the draft bill would serve any useful objective. We do not believe that anything would be gained by replacing the Department’s general statutory authority with detailed guidelines providing for the design, production, and sale of medals. In our opinion, such detailed requirements should be set forth in Departmental regulations rather than spelled out in an Act of Congress.” Letter to Hon. Walter E. Fauntroy, Chairman of the Subcommittee on Historic Preservation and Coinage of the House Committee on Banking, Finance, and Urban Affairs, from the General Counsel’s Office of the Department of the Treasury (Oct. 13, 1977) (copy on file in subcommittee offices). The letter then took issue with the position that particular recent medals have been circumventions or abrogations of section 3551 of the Revised Statutes, noting that “the specific terms and conditions applicable to a particular national medal would continue to be spelled out by Congress in each authorizing legislation.” In both instances, the General Counsel has ignored the point of the revision. First, there are no departmental regulations governing national medals, except to the extent that 31 C.F.R. §§ 92.5-92.6 (1976) cope with this, which they do without specificity. Second, while it is clear that no Congress can by law bind a future Congress as to what laws it may pass, legislative practice is for the drafter of legislation to examine the most immediate predecessors and then attempt to draft alternative clauses based upon the model. To the extent that the models provide warped versions of the general rule of law, they feed upon themselves and cause a continuation of the practice. Laws are intended to reflect a substantive system of rules and regulations and when there are more exceptions to the rule than examples which follow the rule, the rule should be changed and the exceptions made law. That is what this part provides for. Cf. 1977 Oversight Hearings on National Medals, supra note 21, at 10 (my remarks). The Treasury response offered no comment concerning any proposed surcharge on its product as a means of promoting use of private minting facilities.
SEC. 502. OTHER MEDALS

The Secretary is authorized to permit the engraver to execute, and the Bureau to strike, such other medals as deemed appropriate or as Congress may direct, provided however that these medals are added to the regular Mint list and offered for sale to the public at a charge sufficient to cover their cost, including the cost of mailing when mailed.

Comment: This section is designed to permit the continuance of regular Mint list medals authorized by the Secretary and struck in accordance with 31 C.F.R. § 92.6 (1976). The standard list includes an extensive selection of Americana. Also permitted under this section is a continuance of the periodic practice of Congress to authorize a single medal honoring a specific individual for certain accomplishments, such as the national medal honoring singer Marian Anderson, and bronze counterparts on the Mint list.

SEC. 503. MARKING REQUIREMENTS FOR CERTAIN MEDALS

(1) Authorization by Congress or direction by the Secretary to strike or re-strike a medal or series of medals previously struck by the Bureau, whether or not in the same metal or size, shall be read to include a requirement that the word “Copy” appear on the product as that term and marking requirement is used in the Hobby Protection Act, 15 U.S.C. § 2101.

(2) This provision shall not affect medals or series of medals authorized for restrikes following passage of the Hobby Protection Act but prior to the enactment of this Title. Restrikes of mint medals authorized following the enactment of this Title, however, shall be deemed to have such requirement. Medals on the regular Mint list, now and in the future, shall not be included within the purview of this section.

Comment: This section is specifically designed to override the interpretation in 16 C.F.R. § 304.1(d) (1977) that medals of the Bureau, whenever struck, are original numismatic items, even if they are in fact copies of earlier products. Specifically, it would require that the word “Copy” appear on the medals. Unaffected would be the recently introduced pewter medal series commemorating battles of the American Revolution. Similarly, the Charles Carroll of Carrollton medal, a recently authorized copy of an 1820 commemorative mint medal, could have been struck without the word “Copy” appearing, though the Mint did in fact change and slightly modify the design to avoid the problem. This section would require such labeling, a fair device designed to insure protection from intentional or unintentional misrepresentation.

SEC. 504. ANNOUNCEMENT OF NATIONAL MEDAL ISSUES

(1) In the instance of medals authorized under section 501(2) of this Title, if the sponsoring organization so requests:
(a) The Director shall announce the availability of such medals to collectors of coins and medals whose names and addresses appear on the customer mailing lists maintained by the Bureau, provided:

(1) That security satisfactory to the Director shall be furnished by the sponsoring organization to indemnify the Bureau for all costs incurred in connection with the announcement of said medals, including charges specified in section 504(2) of this Title;

(2) That the mailing list remains in possession and control of the Bureau; and

(3) That the individuals on the mailing list do not object to the receipt of said mailings under the procedures set forth in subsection (b) below.

(b) The Director shall announce, in connection with the annual offering for sale of proof and mint sets to collectors on the customer mailing list, that certain promotional mailings may be made by the Bureau in the course of the forthcoming year by direction of Congress for the benefit of a private sponsoring organization. The Director shall further:

(1) provide a means by which recipients of regular mint announcements may have their names and addresses deleted from any mailings pertaining to products sold by the Bureau; and

(2) send no promotional pieces for medals authorized under section 501(2) of this Title to those individuals not wishing to receive them.

(2) The Director shall assess against the organization sponsoring the medals authorized by section 501(2) of this Title a charge of forty dollars ($40) per thousand names mailed to under section 504(1)(a) of this Title, in addition to other costs incurred, including but not limited to postage, printing, labeling, and like items.

(3) Proceeds of funds collected pursuant to section 504(2) of this Title shall first be utilized to offset costs incurred in connection with compliance with subsection (b) of section 504(1) of this Title, and the excess, if any, shall accrue to the General Fund of the Treasury.

(4) No mailings shall be made under this section until after the requirements of section 504(b)(2) are fulfilled, which shall be done by the Director within one year from the enactment of this Title.

Comment: This section, dealing with a subject not covered in the 1973 revision proposal, attempts to strike a balance between the need for individual privacy and the desires of private enterprise to compete with the Mint monopoly and with each other. Mailings of announcements of the availability of numismatic products was done by the Bureau of the Mint on behalf of the American Revolution Bicentennial Administration and the Inaugural Committees of Presidents Nixon and Carter in 1972 and 1976, respectively. For the former, the so-called “Economy in Government” Act, 31 U.S.C. § 686 (1970), was used as justification, while in the latter cases the Presidential Inaugural Ceremonies Act of 1956 was utilized. One large private entrepreneur in
particular derived substantial economic benefit from the cooperation in inaugural medal sales, in that the responses to the announcement now form a permanent part of the mailing list of the commercial entity which handled the striking and distribution for the two inaugural committees.429 A compelling argument in equity can be made for similar access to the mailing list for other private commercial manufacturers. It has been argued, though not to the satisfaction of the Bureau of the Mint, that the names and addresses on the mint mailing list are within the purview of the Freedom of Information Act and not part of the Privacy Act of 1974.430 The position of the Mint is apparently that the privacy of individual collectors should not be disturbed, yet any privacy argument would seem to fail in light of the ARBA mailing, the mailing on behalf of the Franklin Mint as marketer of the presidential inaugural medallions, and the initial approval by General Counsel of the Treasury of the use of the mint mailing list in connection with a medallic program of more than a dozen years duration instituted by the United States Capitol Historical Society.431

It seems obvious that a balancing process is needed to adjust the equities between the individual’s desire or need for privacy and security, and the commercial goal of equality of treatment. What the Model Act has done is to guarantee individual privacy upon request, through voluntary deletion of the names and addresses on the mailing list, for all but officially connected mailings.432

The Mint will, under § 504(1)(b) of the Model Act, offer individuals the opportunity to withdraw their names and addresses from the mailing list in September 9, 1977 (copy in files of Bureau of the Mint, Washington, D.C.), in explanatory response to a request explained in note 430 infra.

429 1977 Capitol Historical Society Medal Hearings, supra note 21, at 37.

430 The Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1970 & Supp. V 1975) and the Privacy Act of 1974, 5 U.S.C. § 552a (Supp. V 1975) are interrelated to the extent that if data involving an individual is not available under the FOIA, the Privacy Act of 1974 may prohibit its release. The author’s law firm, since mid-1977, has been involved in a FOIA request on behalf of a client, a private mint seeking competitive equality with the commercial entity which gained the use, though not possession, of the Mint’s mailing list for the marketing of presidential inaugural commemorative medals in 1969 and 1972, in the manner described in the text. The initial request was rejected on July 21, 1977 based upon the personal privacy exemption found in 5 U.S.C. § 552(b)(6) (1970), and its administrative counterpart, 31 C.F.R. § 1.2(c)(vi) (1976). An administrative appeal ensued, which appeal was rejected by the Acting Director of the Mint on September 9, 1977, citing, inter alia, Wine Hobby USA, Inc. v. I.R.S., 502 F.2d 133 (3d Cir. 1974) as dispositive of the fact that information sought for commercial gain is without the scope of the FOIA. In light of pending litigation on this issue in the federal courts it is probably premature to comment authoritatively on the Bureau’s viewpoint, but the author wishes to point out that some courts and commentators take a view contrary to that expressed by the Acting Mint Director. See, e.g., Disabled Officer’s Ass’n v. Rumsfeld, 428 F.Supp. 454 (D.D.C. 1977). See also D. O’REILLY, FEDERAL INFORMATION DISCLOSURE § 16.08 (1977); 2 D. MEZINES, S. STEIN, & G. GRUFF, ADMINISTRATIVE LAW § 10.07 (1977).

431 Letter from Acting General Counsel of the Treasury to Henry S. Reuss, Chairman of the House Committee on Banking, Finance, and Urban Affairs (June 23, 1977), which stated in pertinent part: Without exception, similar measures in the past limited the Department’s involvement to the manufacture of the medals . . . and left promotion and marketing . . . to each private sponsoring organization. Nevertheless, the Department would have no objection to the use of the Mint’s list in this instance if so directed by the Congress.” Upon reconsideration, however, the Treasury took the position that the use of the list would establish “an undesirable precedent.” S. Rep. No. 95-611, 95th Cong., 1st Sess. 6 (1977).

432 There is no apparent statutory authority for the Mint to undertake such a mailing, a fact confirmed by request for such an undertaking as part of a FOIA request in which the requesting party agreed to pay for all costs involved. The request was denied as explained in note 430 supra.
connection with the annual solicitation of orders for proof and mint sets, which is a means of reaching virtually the entire audience of prospective customers, and also of keeping the actual costs relatively low. As to the actual costs involved in mailing solicitations under this section, rates equivalent to nationally competitive charges are provided in section 504(2) of the Model Act.

TITLE VI — PATTERN COINAGE, EXPERIMENTAL PIECES, AND TRIAL STRIKES

SEC. 601. PATTERNS, EXPERIMENTAL PIECES, AND TRIAL STRIKES
SOLD BY THE BUREAU

Title to pattern coins, trial strikes, experimental pieces and like products sold by any Superintendent of the Mint pursuant to regulations prescribed by the Director shall lie with the holder of said pieces.

Comment: This section gives recognition to the practice of the United States Mint, before the turn of the 20th century, of selling pattern coins and experimental pieces, including trial strikes. It is designed to leave no doubt as to the ownership of products sold by the Mint, despite regulations issued subsequently which might tend to leave such ownership in doubt.

SEC. 602. PATTERNS, EXPERIMENTAL PIECES, AND TRIAL STRIKES MANUFACTURED BEFORE 1933

Pattern coins, trial strikes, experimental pieces, and like products produced at any Mint of the United States prior to December 31, 1932 may be legally held by any person, partnership, association, or corporation. Title to said pieces shall lie with the holder.

Comment: This section is aimed at establishing an artificial cut-off through which all patterns previously manufactured may be legally owned without fear of government seizure. While estoppel might well be a valid defense against seizure of a product sold by the Government, the same does not hold true for pieces removed in a clandestine or surreptitious manner. In some cases, such as with the 1913 Liberty head nickel produced and removed from the Mint in a clandestine manner, widely publicized sales and television appearances might permit an argument of reliance against seizures. This section would prevent the seizure of such coins which, according to the Office of General Counsel of the Treasury Department, could otherwise be accomplished. For purposes of this section, a pre-1933 cut-off is provided.

SEC. 603. PATTERNS AND EXPERIMENTAL AND TRIAL STRIKES MANUFACTURED SINCE 1933.

(1) Title to pattern coins, trial strikes, experimental pieces, and like products manufactured at any Mint of the United States after December 31, 1932, but prior to passage of this Act, shall be vested in the United States, subject to such conditions as are hereinafter provided.

433 See notes 340-91 supra.
434 See note 297 supra.
435 Reiter, People Took Liberties with the Liberty Nickel, 21 Coins 38 (1974).
Title to any pattern coin, experimental piece, trial strike, or like product manufactured after December 31, 1932, but prior to the introduction of this Act, which were sold prior to the introduction of this Act at public auction without reserve in an arms-length transaction to a bona fide purchaser for value, shall be vested in the holder.

Pattern coins, trial strikes, experimental pieces, and like products manufactured after December 31, 1932, except as provided in subsection (2), may be seized and replevied by the United States, provided:

(a) That coins so seized and replevied are added to the national numismatic collection of the Smithsonian Institution, or

(b) That subject to such rules, regulations, and conditions as the Secretary shall prescribe within one year following passage of this Title, such coins are placed on exhibition in a museum or other place of public viewing sponsored by a non-profit educational numismatic association or society, or such other facility as may be designated by the Secretary.

For purposes of this Title, the term “like products” shall include, but shall not be limited to, coins authorized to be struck for circulation but not officially released by the Bureau through the Federal Reserve System.

Comment: This section is designed to deal with pattern coinage and like materials manufactured by the Bureau since 1933. This cut-off point was set arbitrarily in section 602. Generally, title to those pieces manufactured since 1933 are considered to have vested in the Government of the United States. However, in the case of pieces sold at unrestricted public auction, providing the government at least constructive notice of their existence, title may remain with the holder provided certain conditions are met — the transaction must have been at arms length and must not have been a sham, and the auction must have been held prior to the introduction of the Act rather than its enactment into law.

The third subsection of section 603 would permit governmental seizure and replevy of coins manufactured after 1933 that are not specifically exempted by the provision of section 603(2), and would result in such pieces being placed in the national numismatic collection or lent to a museum for exhibition purposes. Destruction of such seized coins would be prohibited.

The final subsection of section 603 defines, at least in part, the term “like products” to include coins of the United States authorized to be struck, but which for one reason or another were never officially released. This would include the 1933 double eagle, the subject of litigation some years ago, the 1964 peace dollar, and presumably other coins fitting this description. The definition remains open-ended to permit variances as may be required, but would not cover errors in the Bureau’s manufacturing process that were actually released into circulation, even by mistake of the Bureau.

SEC. 604. PIECES MANUFACTURED AFTER INTRODUCTION OF THIS ACT.

Pattern coins, trial strikes, experimental pieces, and like products manufactured after the introduction of this Act shall not be subject to
legal ownership by private individuals, unless offered for sale by the Secretary subject to regulations as may be prescribed. However:

(a) Two specimens of all pieces so manufactured, whether or not offered for public sale, shall be transmitted to the Smithsonian Institution national numismatic collection, and;

(b) At the direction of the Secretary other specimens may be lent for exhibition purposes, under such terms, conditions, and regulations as the Secretary may prescribe, to non-profit educational associations, societies, and museums, and to such other groups as the Secretary may direct.

Comment: This section would require preservation of at least two specimens of each trial strike, experimental piece, pattern, or like product as a permanent historical record reposed in the Smithsonian. A secondary provision would permit a limited number of such pieces, at the option of the Secretary, to be lent for exhibition purposes to certain groups. The Secretary would also be permitted to regularly sell pattern, experimental, and trial strike issues at his or her discretion under such terms and conditions as the Secretary might by regulation direct. Presumably, the Mint's marketing techniques could be utilized.439

TITLE VII — SPECIAL FUNDS OF THE BUREAU, AND CERTAIN RECEIPTS AND EXPENDITURES

SEC. 701. FUNDING OF THE BUREAU

The Bureau shall be funded through annual appropriations, except as otherwise provided in this Title.

Comment: This section corresponds to the last sentence of section 205 of the 1973 revision proposal. The exception allowed is a significant one, for the basic funding covers salaries, construction, automobile purchases, machinery, other necessary equipment, the Annual Assay Commission if alternative "A" is adopted in section 404 of this Act, and other functions, but not the cost of coinage metal or bullion purchases or the cost of distributing the coinage. This is explained in the following section and comment.

SEC. 702. COINAGE METAL AND BULLION Fund

(1) There shall be maintained for the Bureau a coinage metal and bullion fund, the purpose of which shall be to enable the Bureau to purchase coinage metal and bullion without securing an appropriation.

(2) There is authorized to be expended from the general cash balance of the Treasury such amounts as are necessary to undertake the functions described in the preceding section, subject to such limitations as Congress may by law establish.

Comment: This section generally covers the same ground as section 207 of the 1973 revision proposal and adopts in part 31 U.S.C. §§ 340, 358 (1970). It avoids the pitfalls of the 1967 revision attempt in this area440 by retaining

439 Refers to the marketing of bicentennial coinage.
congressional control in the form of limitation of the amount of the fund, apparently a major objection\textsuperscript{441} to the earlier attempted change.

**SEC. 703. COINAGE PROFIT FUND**

(1) There shall be maintained a coinage profit fund, the purpose of which shall be to pay the necessary costs of distribution of coinage, for wastage incurred in production, and for other purposes.

(2) The coinage profit fund shall be funded from seigniorage derived from the difference between the cost of the metals purchased and the face value of the coin produced, and from proceeds derived from the sale of metals or materials resulting from the melting of coin by the Bureau.

(3) The coinage profit fund shall be charged with the metal wastage incurred in production of such coinage, with the cost of distributing such coinage, and with such sums as shall from time to time be transferred to the General Fund of the Treasury.

(4) Gains and losses on coinage shall be adjusted, and sums transferred pursuant to subsection (3), at least once during the Bureau's fiscal year.

*Comment:* Portions of this section are covered in section 204 in the 1973 revision proposal, and others in the 1967 attempted reformation in this area. Current coinage law codifies this as 31 U.S.C. § 340 (1970), but that provision is lacking in definition as well as purpose. Subsection (4) has been included as an assurance that the Bureau will not use the funding beyond each fiscal year.

**SEC. 704. REIMBURSABLES**

Net proceeds from the sale of numismatic items and foreign coins manufactured pursuant to section 304 of this Act shall be reimbursed to the current appropriation for the cost of manufacturing and handling such items.

*Comment:* This section gives partial effect to section 205 of the 1973 revision proposal, and is covered in existing law by 31 U.S.C. § 369 (1970). The term “handling” is employed, rather than “sale” as in current law, to permit a broader base from which to assess charges.

**SEC. 705. OTHER PROCEEDS**

Proceeds derived other than from the sale of reimbursables described in section 704 of this Title shall from time to time be paid over to the General Fund of the Treasury.

*Comment:* This section covers the balance of 31 U.S.C. § 369 (1970); and portions of other income-producing sections of the coinage law. It is aimed particularly at bullion transactions mentioned in section 205 of the 1973 revision, but also clearly covers any proceeds not specifically mentioned in sections 702 to 704 of this Title.

\textsuperscript{441} Mint Operating Fund: Hearings on S. 1156 Before the Subcomm. on Financial Institutions of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. 2-8 (1967).
TITLE VIII — REPEALS, AND INAPPLICABILITY OF CERTAIN LAWS AND REGULATIONS

SEC. 801. REPEALS

The following provisions of law are repealed:


(22) Act of March 14, 1900, ch. 41, § 14, 31 Stat. 49 (current version at 31 U.S.C. § 313 (1970)).
(33) REV. STAT. § 3518 (1875) (current version at 31 U.S.C. § 325 (1970)).
(35) REV. STAT. § 3519 (1875) (current version at 31 U.S.C. § 327 (1970)).
(36) REV. STAT. § 3520 (1875) (current version at 31 U.S.C. § 328 (1970)).
(37) REV. STAT. § 3521 (1875) (current version at 31 U.S.C. § 329 (1970)).
(38) REV. STAT. § 3521 (1875) (current version at 31 U.S.C. § 330 (1970)).
(39) REV. STAT. § 3523 (1875) (current version at 31 U.S.C. § 331 (1970)).
(40) REV. STAT. § 3524 (1875) (current version at 31 U.S.C. § 332 (1970)).
(41) REV. STAT. § 3525 (1875) (current version at 31 U.S.C. § 334 (1970)).
(42) REV. STAT. § 3526 (1875) (current version at 31 U.S.C. § 335 (1970)).


Comment: This Title, closely following section 302 of the 1973 Mint revision proposal, repeals eighty different provisions of law that are either obsolete, duplicated elsewhere within this Act, or in conflict with certain provisions of the Act. With the exception of the repeal of 31 U.S.C. § 315b (1970), other pertinent provisions of the Gold Reserve Act of 1934 have not been repealed; instead, they are dealt with in section 802 of this Title. The approach used in cataloguing the provisions for repeal was a numerical one, beginning with chapter 7 of Title 31 of the United States Code, and proceeding through Chapter 8 and the several coinage provisions located there that are not covered by section 802 of this Act. It should be noted that several sections of these chapters were not repealed: 31 U.S.C. § 314 (1970) (standard unit of value for dollar established); 31 U.S.C. § 371 (1970) (decimal currency units denominated); 31 U.S.C. § 372 (1970) (currency conversion provisions for foreign monies). No action was taken upon these matters because they appear to be without the scope of this revision. It should also be noted that the errors which appeared in section 302 of the 1973 revision proposal, principally in the nature of repealing of laws already deleted from the statutes, have been corrected in this section.442

Sec. 802. Inapplicability of Certain Laws and Regulations

(1) No provision of law prohibiting or regulating the issuance, use, redemption, or legal tender status of any coin struck by the Bureau shall

442 The statutes intended to be repealed by sections 302(5), 302(59), and 303(71) of the 1973 revision legislation, S. 1619, 93d Cong., 1st Sess. (1973), had already been repealed or had expired when the 1973 legislation was introduced. Other sections of the revision proposal, such as section 303(69), would inadvertently have failed to repeal amended versions of laws.
be construed to limit the issuance, use, redemption, or legal tender status of any coin struck by the Bureau pursuant to authority granted by section 301(g) or section 303 of this Act.

Comment: This section is designed to prevent provisions of the Gold Reserve Act of 1934 from being an effective bar to the issuance of a gold commemorative coin, or other gold coin struck pursuant (and hence after the enactment) of this Act. It avoids repeal of that Act, several provisions of which still apparently bear importance.

Sec. 802. Inapplicability (cont.)

(2) Any order, license, regulation, or rule in effect at the time of the enactment of this Act, the authority of which rests on a law repealed by section 801 of this Title, shall continue in effect under any authority provided by this Act until such order, license, regulation, or rule is repealed, amended, or superceded.

Comment: This subsection duplicates section 301 of the 1973 Mint revision proposal and is intended to keep in effect the majority of Mint regulations now in force, a sound move in the light of the purposes and intent of this Act. The Secretary would of course retain the option to amend, alter, repeal, or supercede these regulations under section 207 (g) and section 207 (j) of this Act.