

the new rules. Krier complains, in an unconsciously humorous note, that some class action suits don't attract *any* plaintiffs at all.<sup>104</sup>

But the major problem of class action suits for the plaintiffs, Krier concedes, is the manageability and ascertainability rules for suits with a large number of plaintiffs in the class, citing in particular the *Diamond v. General Motors* case. But whereas Krier attributes the problem solely to the lack of competence and facilities judges possess to balance the various interests, he fails to realize the still larger problem of lack of identifiability and lack of clear proof of guilt and causality between defendant and plaintiff.

## **CONCLUSION**

We have attempted to set forth a set of libertarian principles by which to gauge and reconstruct the law. We have concluded that everyone should be able to do what he likes, except if he commits an overt act of aggression against the person and property of another. Only this act should be illegal, and it should be prosecutable only in the courts under tort law, with the victim or his heirs and assigns pressing the case against the alleged aggressor. Therefore, no statute or administrative ruling creating illegal actions should be permitted. And since any prosecution on behalf of "society" or the "state" is impermissible, the criminal law would be collapsed into a reconstituted tort law, incorporating punishment and part of the law of attempts.

The tortfeasor or criminal is to be strictly liable for his aggression, with no evasion of liability permissible on the basis of "negligence" or "reasonability" theories. However, the liability must be proven on the basis of strict causality of the defendant's action against the plaintiff, and it must be proven by the plaintiff beyond a reasonable doubt.

The aggressor and only the aggressor should be liable, and not the employer of an aggressor, provided, of course, that the tort was not committed at the direction of the employer. The current system

<sup>104</sup>In short, what if they filed a pollution class action suit and nobody came? Krier cites the case of *Riter v. Keokuk Electro-Metals Co.* 248 Iowa 710, 82 N.W. 2d 151 (1957). Krier, "Air Pollution and Legal Institutions," p. 217. Also see John Esposito, "Air and Water Pollution: What to Do While Waiting for Washington," *Harvard Civil Rights/Civil Liberties Law Review* (January 1970): 36.

of vicarious employer liability is a hangover from pre-capitalist master/serf relations and is basically an unjust method of finding deep pockets to plunder.

These principles should apply to all torts, including air pollution. Air pollution is a private nuisance generated from one person's landed property onto another and is an invasion of the airspace appurtenant to land and, often, of the person of the landowner. Basic to libertarian theory of property rights is the concept of homesteading, in which the first occupier and user of a resource thereby makes it his property. Therefore, where a "polluter" has come first to the pollution and has preceded the landowner in emitting air pollution or excessive noise onto empty land, he has thereby homesteaded a pollution or excessive noise easement. Such an easement becomes his legitimate property right rather than that of the later, adjacent landowner. Air pollution, then, is not a tort but only the ineluctable right of the polluter if he is simply acting on a homestead easement. But where there is no easement and air pollution is evident to the senses, pollution is a tort *per se* because it interferes with the possession and use of another's air. Boundary crossing—say by radio waves or low-level radiation—cannot be considered aggression because it does not interfere with the owner's use or enjoyment of his person or property. Only if such a boundary crossing commits provable harm—according to principles of strict causality and beyond a reasonable doubt—can it be considered a tort and subject to liability and injunction.

A joint tort, in which defendants are compelled to defend themselves jointly, should apply only if all acted in concert. Where their actions are separate, the suits must be separate as well, and the liability apportioned separately. Plaintiffs should be able to join their suits against a defendant only if their cases have a common element predominating over the separate and individual interests. Class action suits are impermissible beyond a voluntary joinder of plaintiffs because they presume to act for and bind class members who have not agreed to join in the suit.

Finally, we must renounce the common practice of writers on environmental law of acting as special pleaders for air pollution plaintiffs, lamenting whenever plaintiffs are not allowed to ride roughshod over defendants. The overriding factor in air pollution law, as in other parts of the law, should be libertarian and property rights principles rather than the convenience or special interests of one set of contestants.

## The Fallacy of the “Public Sector”

We have heard a great deal in recent years of the “public sector,” and solemn discussions abound through the land on whether or not the public sector should be increased *vis-à-vis* the “private sector.” The very terminology is redolent of pure science, and indeed it emerges from the supposedly scientific, if rather grubby, world of “national income statistics.” But the concept is hardly *wertfrei*; in fact, it is fraught with grave, and questionable, implications.

In the first place, we may ask: “public sector” of *what*? Of something called the “national product.” But note the hidden assumptions: that the national product is something like a pie, consisting of several “sectors,” and that these sectors, public and private alike, are added to make the product of the economy as a whole. In this way, the assumption is smuggled into the analysis that the public and private sectors are equally productive, equally important, and on an equal footing altogether, and that “our” deciding on the proportions of public to private sector is about as innocuous as any individual’s decision on whether to eat cake or ice cream. The State is considered to be an amiable service agency, somewhat akin to the corner grocer, or rather to the neighborhood lodge, in which “we” get together to decide how much “our government” should do for (or to) us. Even those neoclassical economists who tend to favor the free market and free society often regard the State as a generally inefficient, but still amiable, organ of social service, mechanically registering “our” values and decisions.

One would not think it difficult for scholars and laymen alike to grasp the fact that government is *not* like the Rotarians or the Elks;

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that it differs profoundly from all other organs and institutions in society; namely, that it lives and acquires its revenues by coercion and not by voluntary payment. The late Joseph Schumpeter was never more astute than when he wrote: "The theory which construes taxes on the analogy of club dues or of the purchase of the services of, say, a doctor only proves how far removed this part of the social sciences is from scientific habits of mind."<sup>1</sup>

Apart from the public sector, what constitutes the productivity of the "private sector" of the economy? The productivity of the private sector does not stem from the fact that people are rushing around doing "something," anything, with their resources; it consists in the fact that they are using these resources to satisfy the needs and desires of the consumers. Businessmen and other producers direct their energies, on the free market, to producing those products which will be most rewarded by the consumers, and the sale of these products may therefore roughly "measure" the importance which the consumers place upon them. If millions of people bend their energies to producing horses-and-buggies, they will, in this day and age, not be able to sell them, and hence the productivity of their output will be virtually zero. On the other hand, if a few million dollars are spent in a given year on Product X, then statisticians may well judge that these millions constitute the productive output of the X-part of the "private sector" of the economy.

One of the most important features of our economic resources is their scarcity: land, labor, and capital goods factors are all scarce, and may all be put to various possible uses. The free market uses them "productively" because the producers are guided, on the market, to produce what the consumers most need: automobiles, for example, rather than buggies. Therefore, while the statistics of the total output of the private sector *seem* to be a mere adding of numbers, or counting units of output, the measures of output actually involve the

<sup>1</sup>In the preceding sentences, Schumpeter wrote:

The friction of antagonism between the private and the public sphere was intensified from the first by the fact that ... the state has been living on a revenue which was being produced in the private sphere for private purposes and had to be deflected from these purposes by political force. (Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* [New York: Harper and Bros., 1942], p. 198)

important qualitative decision of considering as “product” what the consumers are willing to buy. A million automobiles, sold on the market, are productive because the consumers so considered them; a million buggies, remaining unsold, would *not* have been “product” because the consumers would have passed them by.

Suppose now, that into this idyll of free exchange enters the long arm of government. The government, for some reasons of its own, decides to ban automobiles altogether (perhaps because the many tail-fins offend the aesthetic sensibilities of the rulers) and to compel the auto companies to produce the equivalent in buggies instead. Under such a strict regimen, the consumers would be, in a sense, compelled to purchase buggies because no cars would be permitted. However, in this case, the statistician would surely be purblind if he blithely and simply recorded the buggies as being just as “productive” as the previous automobiles. To call them equally productive would be a mockery; in fact, given plausible conditions, the “national product” totals might not even show a statistical decline, when they had actually fallen drastically.

And yet the highly-touted “public sector” is in even worse straits than the buggies of our hypothetical example. For most of the resources consumed by the maw of government have not even been seen, much less used, by the consumers, who were at least allowed to ride in their buggies. In the private sector, a firm’s productivity is gauged by how much the consumers voluntarily spend on its product. But in the public sector, the government’s “productivity” is measured—*mirabile dictu*—by how much *it spends!* Early in their construction of national product statistics, the statisticians were confronted with the fact that the government, unique among individuals and firms, could not have its activities gauged by the voluntary payments of the public—because there were little or none of such payments. Assuming, without any proof, that government *must* be as productive as anything else, they then settled upon its expenditures as a gauge of its productivity. In this way, not only are government expenditures just as useful as private, but all the government need to do in order to increase its “productivity” is to add a large chunk to its bureaucracy. Hire more bureaucrats, and see the productivity of the public sector rise! Here, indeed, is an easy and happy form of social magic for our bemused citizens.

The truth is exactly the reverse of the common assumptions. Far from adding cozily to the private sector, the public sector can only

feed off the private sector; it necessarily lives parasitically upon the private economy. But this means that the productive resources of society—far from satisfying the wants of consumers—are now directed, by compulsion, *away from* these wants and needs. The consumers are deliberately thwarted, and the resources of the economy diverted from them to those activities desired by the parasitic bureaucracy and politicians. In many cases, the private consumers obtain nothing at all, except perhaps propaganda beamed to them at their own expense. In other cases, the consumers receive something far down on their list of priorities—like the buggies of our example. In either case, it becomes evident that the “public sector” is actually *antiproductive*: that it *subtracts from*, rather than adds to, the private sector of the economy. For the public sector lives by continuous attack on the very criterion that is used to gauge productivity: the voluntary purchases of consumers.

We may gauge the fiscal impact of government on the private sector by subtracting government expenditures from the national product. For government payments to its own bureaucracy are hardly additions to production; and government absorption of economic resources takes them out of the productive sphere. This gauge, of course, is only fiscal; it does not begin to measure the anti-productive impact of various government regulations, which cripple production and exchange in other ways than absorbing resources. It also does not dispose of numerous other fallacies of the national product statistics. But at least it removes such common myths as the idea that the productive output of the American economy increased during World War II. Subtract the government deficit instead of add it, and we see that the real productivity of the economy declined, as we would rationally expect during a war.

In another of his astute comments, Joseph Schumpeter wrote, concerning anticapitalist intellectuals, “capitalism stands its trial before judges who have the sentence of death in their pockets. They are going to pass it, whatever the defense they may hear; the only success a victorious defense can possibly produce is a change in the indictment.”<sup>2</sup> The indictment has certainly been changing. In the 1930s, we heard that government must expand because capitalism had brought about mass poverty. Now, under the aegis of John Kenneth Galbraith,

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<sup>2</sup>Ibid, p. 144.

we hear that capitalism has sinned because the masses are too affluent. Where once poverty was suffered by "one-third of a nation," we must now bewail the "starvation" of the public sector.

By what standards does Dr. Galbraith conclude that the private sector is too bloated and the public sector too anemic, and therefore that government must exercise further coercion to rectify its own malnutrition? Certainly, his standard is not historical. In 1902, for example, net national product of the United States was \$22.1 billion; government expenditure (Federal, state, and local) totalled \$1.66 billion, or 7.1 percent of the total product. In 1957, on the other hand, net national product was \$402.6 billion, and government expenditures totalled \$125.5 billion, or 31.2 percent of the total product. Government's fiscal depredation on the private product has therefore multiplied from four to five-fold over the present century. This is hardly "starvation" of the public sector. And yet, Galbraith contends that the public sector is being increasingly starved, relative to its status in the non-affluent nineteenth century!

What standards, then, does Galbraith offer us to discover when the public sector will finally be at its optimum? The answer is, nothing but personal whim:

There will be question as to what is the test of balance—at what point may we conclude that balance has been achieved in the satisfaction of private and public needs. The answer is that no test can be applied, for none exists. . . . The present imbalance is clear. . . . This being so, the direction in which we move to correct matters is utterly plain.<sup>3</sup>

To Galbraith, the imbalance of today is "clear." Clear why? Because he looks around him and sees deplorable conditions wherever government operates. Schools are overcrowded, urban traffic is congested and the streets littered, rivers are polluted; he might have added that crime is increasingly rampant and the courts of justice clogged. All of these are areas of government operation and ownership. The one supposed solution for these glaring defects is to siphon more money into the government till.

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<sup>3</sup>John Kenneth Galbraith, *The Affluent Society* (Boston: Houghton Mifflin, 1958), pp. 320–21.

But how is it that only *government* agencies clamor for more money and denounce the citizens for reluctance to supply more? Why do we never have the private-enterprise equivalents of traffic jams (which occur on government streets), mismanaged schools, water shortages, and so on? The reason is that private firms acquire the money that they deserve from two sources: voluntary payment for the services by consumers, and voluntary investment by investors in expectation of consumer demand. If there is an increased demand for a privately-owned good, consumers pay more for the product, and investors invest more in its supply, thus “clearing the market” to everyone’s satisfaction. If there is an increased demand for a publicly-owned good (water, streets, subway, and so on), all we hear is annoyance at the consumer for wasting precious resources, coupled with annoyance at the taxpayer for balking at a higher tax load. Private enterprise makes it its business to court the consumer and to satisfy his most urgent demands; government agencies denounce the consumer as a troublesome user of their resources. Only a government, for example, would look fondly upon the prohibition of private cars as a “solution” for the problem of congested streets. Government’s numerous “free” services, moreover, create permanent excess demand over supply and therefore permanent “shortages” of the product. Government, in short, acquiring its revenue by coerced confiscation rather than by voluntary investment and consumption, is not and *cannot* be run like a business. Its inherent gross inefficiencies, the impossibility for it to clear the market, will insure its being a mare’s nest of trouble on the economic scene.<sup>4</sup>

In former times, the inherent mismanagement of government was generally considered a good argument for keeping as many things as possible out of government hands. After all, when one has invested in a losing proposition, one tries to refrain from pouring good money after bad. And yet, Dr. Galbraith would have us redouble our determination to pour the taxpayer’s hard-earned money down the rathole of the “public sector,” and uses the very defects of government operation as his major argument!

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<sup>4</sup>For more on the inherent problems of government operations, see Murray N. Rothbard, “Government in Business,” in *Essays on Liberty* (Irvington-on-Hudson, N.Y: Foundation for Economic Education, 1958), vol. 4, pp. 183–87.

Professor Galbraith has two supporting arrows in his bow. First, he states that, as people's living standards rise, the added goods are not worth as much to them as the earlier ones. This is standard knowledge; but Galbraith somehow deduces from this decline that people's private wants are now worth nothing to them. But if that is the case, then why should government "services," which have expanded at a much faster rate, still be worth so much as to require a further shift of resources to the public sector? His final argument is that private wants are all artificially induced by business advertising which automatically "creates" the wants that it supposedly serves. In short, people, according to Galbraith, would, if let alone, be content with nonaffluent, presumably subsistence-level living; *advertising* is the villain that spoils this primitive idyll.

Aside from the philosophical problem of how A can "create" B's wants and desires without B's having to place his own stamp of approval upon them, we are faced here with a curious view of the economy. Is everything above subsistence "artificial"? By what standard? Moreover, why in the world should a business go through the extra bother and expense of inducing a change in consumer wants, when it can profit by serving the consumer's existing, un"created" wants? The very "marketing revolution" that business is now undergoing, its increased and almost frantic concentration on "market research," demonstrates the reverse of Galbraith's view. For if, by advertising, business production automatically creates its own consumer demand, there would be no need whatever for market research—and no worry about bankruptcy either. In fact, far from the consumer in an affluent society being more of a "slave" to the business firm, the truth is precisely the opposite: for as living standards rise above subsistence, the consumer gets more particular and choosy about what he buys. The businessman must pay even greater court to the consumer than he did before: hence the furious attempts of market research to find out what the consumers want to buy.

There is an area of our society, however, where Galbraith's strictures on advertising may almost be said to apply—but it is in an area that he curiously never mentions. This is the enormous amount of advertising and propaganda *by government*. This is advertising that beams to the citizen the virtues of a product which, unlike business advertising, he never has a chance to test. If Cereal Company X prints a picture of a pretty girl declaiming that "Cereal X is yummy,"

the consumer, even if doltish enough to take this seriously, has a chance to test that proposition personally. Soon his *own* taste determines whether he will buy or not. But if a government agency advertises its own virtues over the mass media, the citizen has no direct test to permit him to accept or reject the claims. If any wants are artificial, they are those generated by government propaganda. Furthermore, business advertising is, at least, paid for by investors, and its success depends on the voluntary acceptance of the product by the consumers. Government advertising is paid for by means of taxes extracted from the citizens, and hence can go on, year after year, without check. The hapless citizen is cajoled into applauding the merits of the very people who, by coercion, are forcing him to pay for the propaganda. This is truly adding insult to injury.

If Professor Galbraith and his followers are poor guides for dealing with the public sector, what standard does our analysis offer instead? The answer is the old Jeffersonian one: "that government is best which governs least." Any reduction of the public sector, any shift of activities from the public to the private sphere, is a net moral and economic gain.

Most economists have two basic arguments on behalf of the public sector, which we may only consider very briefly here. One is the problem of "external benefits." A and B often benefit, it is held, if they can force C into doing something. Much can be said in criticism of this doctrine; but suffice it to say here that any argument proclaiming the right and goodness of, say, three neighbors, who yearn to form a string quartet, forcing a fourth neighbor at bayonet point to learn and play the viola, is hardly deserving of sober comment. The second argument is more substantial; stripped of technical jargon, it states that some essential services simply *cannot* be supplied by the private sphere, and that therefore government supply of these services is necessary. And yet, every single one of the services supplied by government has been, in the past, successfully furnished by private enterprise. The bland assertion that private citizens cannot possibly supply these goods is never bolstered, in the works of these economists, by any proof whatever. How is it, for example, that economists, so often given to pragmatic or utilitarian solutions, do not call for social "experiments" in this direction? Why must political experiments always be in the direction of more government? Why not give the free market a county or even a state or two, and see what it can accomplish?

## Statistics: Achilles's Heel of Government

Ours is truly an Age of Statistics. In a country and an era that worships statistical data as super-“scientific,” as offering us the keys to all knowledge, a vast supply of data of all shapes and sizes pours forth upon us. Mostly, it pours forth from government. While private agencies and trade associations do gather and issue some statistics, they are limited to specific wants of specific industries. The vast bulk of statistics is gathered and disseminated by government. The over-all statistics of the economy, the popular “gross national product” data that permits every economist to be a soothsayer of business conditions, come from government. Furthermore, many statistics are by-products of other governmental activities: from the Internal Revenue bureau come tax data, from unemployment insurance departments come estimates of the unemployed, from customs offices come data on foreign trade, from the Federal Reserve flow statistics on banking, and so on. And as new statistical techniques are developed, new divisions of government departments are created to refine and use them.

The burgeoning of government statistics offers several obvious evils to the libertarian. In the first place, it is clear that too many resources are being channeled into statistics-gathering and statistics-production. Given a wholly free market, the amount of labor, land, and capital resources devoted to statistics would dwindle to a small fraction of the present total. It has been estimated that the federal government alone spends over \$48,000,000 on statistics, and that

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statistical work employs the services of over 10,000 full-time civilian employees of the government.<sup>1</sup>

### HIDDEN COSTS OF REPORTING

Second, the great bulk of statistics is gathered by government coercion. This not only means that they are products of unwelcome activities; it also means that the true cost of these statistics to the American public is much greater than the mere amount of tax money spent by the government agencies. Private industry, and the private consumer, must bear the burdensome costs of record-keeping, filing, and the like, that these statistics demand. Not only that; these fixed costs impose a relatively great burden on small business firms, which are ill-equipped to handle the mountains of red tape. Hence, these seemingly innocent statistics cripple small business enterprise and help to rigidify the American business system. A Hoover Commission task force found, for example, that:

No one knows how much it costs American industry to compile the statistics that the Government demands. The chemical industry alone reports that each year it spends \$8,850,000 to supply statistical reports demanded by three departments of the Government. The utility industry spends \$32,000,000 a year in preparing reports for Government agencies . . .

All industrial users of peanuts must report their consumption to the Department of Agriculture. . . . Upon the intervention of the Task Force, the Department of Agriculture agreed that henceforth only those that consume more than ten thousand pounds a year need report . . .

If small alterations are made in two reports, the Task Force says one industry alone can save \$800,000 a year in statistical reporting.

Many employees of private industry are occupied with the collection of Government statistics. This is especially burdensome to small businesses. A small hardware store owner in Ohio estimated that 29 per cent of his time is absorbed in filling out such reports.

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<sup>1</sup>Cf. Neil Macneil and Harold W. Metz, *The Hoover Report, 1953–1955* (New York: Macmillan, 1956), pp. 90–91; Commission on Organization of the Executive Branch of the Government, *Task Force Report on Paperwork Management* (Washington, D.C.: June 1955); and idem, *Report on Budgeting and Accounting* (Washington, D.C.: February 1949).

Not infrequently people dealing with the Government have to keep several sets of books to fit the diverse and dissimilar requirements of Federal agencies.<sup>2</sup>

### **OTHER OBJECTIONS**

But there are other important, and not so obvious, reasons for the libertarian to regard government statistics with dismay. Not only do statistics-gathering and producing go beyond the governmental function of defense of persons and property; not only are economic resources wasted and misallocated, and the taxpayers, industry, small business, and the consumer burdened. But, furthermore, statistics are, in a crucial sense, critical to all interventionist and socialist activities of government. The individual consumer, in his daily rounds, has little need of statistics; through advertising, through the information of friends, and through his own experience, he finds out what is going on in the markets around him. The same is true of the business firm. The businessman must also size up his particular market, determine the prices he has to pay for what he buys and charge for what he sells, engage in cost accounting to estimate his costs, and so on. But none of this activity is really dependent upon the *omnium gatherum* of statistical facts about the economy ingested by the federal government. The businessman, like the consumer, knows and learns about his particular market through his daily experience.

### **A SUBSTITUTE FOR MARKET DATA**

Bureaucrats as well as statist reformers, however, are in a completely different state of affairs. They are decidedly outside the market. Therefore, in order to get "into" the situation that they are trying to plan and reform, they must obtain knowledge that is not personal, day-to-day experience; the only form that such knowledge can take is statistics.<sup>3</sup> Statistics are the eyes and ears of the bureaucrat, the politician, the socialistic reformer. Only by statistics can they know, or at

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<sup>2</sup>Macneil and Metz, *The Hoover Report*, pp. 90–91.

<sup>3</sup>On the deficiencies of statistics as compared to the personal knowledge of all participants utilized on the free market, see the illuminating discussion in F.A. Hayek, *Individualism and the Economic Order* (Chicago: University Press, 1948), chap. 4. Also see Geoffrey Dobbs, *On Planning the Earth* (Liverpool: K.R.P. Pubs., 1951), pp. 77–86.

least have any idea about, what is going on in the economy.<sup>4</sup> Only by statistics can they find out how many old people have rickets, or how many young people have cavities, or how many Eskimos have defective sealskins—and therefore only by statistics can these interventionists discover who “needs” what throughout the economy, and how much federal money should be channeled in what directions.

### THE MASTER PLAN

Certainly, only by statistics, can the federal government make even a fitful attempt to plan, regulate, control, or reform various industries—or impose central planning and socialization on the entire economic system. If the government received no railroad statistics, for example, how in the world could it even start to regulate railroad rates, finances, and other affairs? How could the government impose price controls if it didn’t even know what goods have been sold on the market, and what prices were prevailing? Statistics, to repeat, are the eyes and ears of the interventionists: of the intellectual reformer, the politician, and the government bureaucrat. Cut off those eyes and ears, destroy those crucial guidelines to knowledge, and the whole threat of government intervention is almost completely eliminated.<sup>5</sup>

<sup>4</sup>As early as 1863, Samuel B. Ruggles, American delegate to the International Statistical Congress in Berlin, declared: “Statistics are the very eyes of the statesmen, enabling him to survey and scan with clear and comprehensive vision the whole structure and economy of the body politic.” For more on the interrelation of statistics—and statisticians—and the government, see Murray N. Rothbard, “The Politics of Political Economists: Comment,” *Quarterly Journal of Economics* (November 1960): 659–65; included in this volume as chapter 18. Also see Dobbs, *On Planning the Earth*.

<sup>5</sup>Government policy depends upon much detailed knowledge about the Nation’s employment, production, and purchasing power. The formulation of legislation and administrative progress . . . supervision . . . regulation . . . and control . . . must be guided by knowledge of a wide range of relevant facts. Today as never before, statistical data play a major role in the supervision of Government activities. Administrators not only make plans in the light of known facts in their field of interest, but also they must have reports on the actual progress achieved in accomplishing their goals. (*Report on Budgeting and Accounting*, pp. 91–92)

**WITHOUT STATISTICS BUREAUCRACY WOULD WITHER AWAY**

It is true, of course, that even deprived of all statistical knowledge of the nation's affairs, the government could still try to intervene, to tax and subsidize, to regulate and control. It could try to subsidize the aged even without having the slightest idea of how many aged there are and where they are located; it could try to regulate an industry without even knowing how many firms there are or any other basic facts of the industry; it could try to regulate the business cycle without even knowing whether prices or business activity are going up or down. It could try, but it would not get very far. The utter chaos would be too patent and too evident even for the bureaucracy, and certainly for the citizens. And this is especially true since one of the major reasons put forth for government intervention is that it "corrects" the market, and makes the market and the economy more rational. Obviously, if the government were deprived of all knowledge whatever of economic affairs, there could not even be a pretense of rationality in government intervention. Surely, the absence of statistics would absolutely and immediately wreck any attempt at socialistic planning. It is difficult to see what, for example, the central planners at the Kremlin could do to plan the lives of Soviet citizens if the planners were deprived of all information, of all statistical data, about these citizens. The government would not even know to whom to give orders, much less how to try to plan an intricate economy.

Thus, in all the host of measures that have been proposed over the years to check and limit government or to repeal its interventions, the simple and unspectacular abolition of government statistics would probably be the most thorough and most effective. Statistics, so vital to statism, its namesake, is also the State's Achilles's heel.



## How and How Not to Desocialize

Everyone in Eastern Europe and the Soviet Union is seemingly anxious to desocialize, to institute free markets and privatization. Plans proliferate, and innumerable Western economists are being consulted on how to go about this daunting task. It is generally acknowledged that bureaucrats are obstructing the process, but confusion abounds among free-market proponents themselves. Matters are scarcely helped by the fact that Western economists, to whom the former Eastern bloc is looking for wisdom, have themselves done virtually nothing to study, let alone solve, this problem during the sixty years since Stalin established socialism in the Soviet Union and the half-century since the Soviets imposed it on Eastern Europe. For ever since the mid-1930s, almost all Western economists have accepted the view that there is no calculation problem under socialism, and most have accepted the subsequent notion that the Soviet economy has been successful and growing, and would shortly overtake that of the United States.<sup>1</sup>

### How Not to Desocialize

We may first clear the way on how to desocialize by examining various paths that have become popular, and yet are decidedly *not* the way to arrive at our presumably common goal.

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<sup>1</sup>Murray N. Rothbard, “Ludwig von Mises and the Collapse of Socialism,” delivered at the annual meeting of the Allied Social Science Association, at Washington, D.C., 1990, and published as “The End of Socialism and the Calculation Debate Revisited,” *Review of Austrian Economics* 5, no. 2 (1991): 51–76; included in this volume as chapter 44.

How not to go about desocialization may be highlighted by the story of a friend of mine, who told me recently about a Soviet colleague in his department, who came to the United States to study diligently the problem of how to create a futures market in the U.S.S.R. He has been stymied by the fact that he cannot seem to figure out what laws or edicts the Soviet state should lay down, so as to replicate the futures market in the United States. In short, he cannot find a way to plan a futures market. Here then is a crucial point: *you cannot plan markets*. By their very nature, you can only set people free so that they can interact and exchange, and thereby develop markets themselves. Similarly, several of the socialist countries, seeing the importance of the capital markets in the West, have been trying to develop stock exchanges, but with little success. First, again, because stock markets cannot be planned, and, second, because, as we will see further, you cannot have markets in titles to capital if there are still virtually no private owners of capital in existence.

### **Do NOT PHASE IN**

It is, again, generally accepted that free markets must be arrived at quickly, and that phasing them in slowly and gradually will only delay the goal indefinitely. It is well known that the giant socialist bureaucracy will only seize upon such delay to obstruct the goal altogether. But there are further important reasons for speed. One, because the free market is an interconnected web or lattice-work; it is made of innumerable parts which intricately mesh together through a network of producers and entrepreneurs exchanging property titles, motivated by a search for profits and avoidance of losses, and calculating by means of a free price system. Holding back, freeing only a few areas at a time, will only impose continuous distortions that will cripple the workings of the market and discredit it in the eyes of an already fearful and suspicious public. But there is also another vital point: the fact that you cannot plan markets applies also to planning for phasing them in. Much as they might delude themselves otherwise, governments and their economic advisers are not in a position of wise Olympians above the economic arena, carefully planning to install the market step by measured step, deciding what to do first, what second, etc. Economists and bureaucrats are no better at planning phase-ins than they are at dictating any other aspect of the market. To achieve genuine freedom, the role of government and its

advisers must be confined to setting their subjects free, as fast and as completely as it takes to unlock their shackles. After that, the proper role of government and its advisers is to get and keep out of the subjects' way.

### ***Do Not Crack Down on Black Markets***

One route toward freedom that former President Gorbachev had adopted was to crack down on the villains of the black market. We might conclude that the mindset of the Eastern bloc has a long way to go in understanding freedom, except that there are precious few Westerners who understand this problem either. For the black marketeers are not villains; if they sometimes look and act like villains, it is only because their entrepreneurial activities have been made illegal. The "black market" is simply the market, the market which Soviets claim to be searching for, but which has turned "black" precisely because it has been declared illegal. It is the market crippled and distorted, but it is there, in this despised "black" area, that the Soviets will find the market most readily. Instead of cracking down, then, the governments should, immediately, set the black market free.

### ***Do Not Confiscate the People's Money***

The Soviet Union suffers from the problem of "ruble overhang," that is too many rubles chasing too few goods. It is generally admitted that the "overhang" is the result of comprehensive price fixing, by which the government has set prices far below market-clearing levels. Over the years, the Soviet government has been rapidly printing new money to finance its expenditures, and this increased money supply, coupled with ever-dwindling supply of goods resulting from the breakdown of socialist planning, has created aggravated shortages and an excess supply of money over goods available.

It is commonly acknowledged that the shortages will be relieved and the overhang abolished, if prices were set free to move. But the government fears the wrath of unhappy consumers. Perhaps, but it is scarcely a solution to do what Gorbachev did, that is, follow the uninspired path of the Brazilian "free market" President Collor de Mello, who in the spring of 1990, in an attempt to reverse hyperinflation, arbitrarily froze 80 percent of all bank accounts. Gorbachev did one better by suddenly making useless all large-ruble bills, allowing only a small number to be exchanged for smaller dominations. This

is no way to eliminate an overhang; at best, the cure is much worse than the disease. In the first place, in this supposed strike at black marketers, it has been rather the savings of the average Soviet that has been destroyed, since the black marketeers were shrewd enough to have moved already into precious metals and foreign currency. But even more important: By this action, the government delivers the second body blow of a one-two punch at the average citizen, and at the economy. The first punch was for the government to inflate the money supply so as to engage in its usual, wasteful expenditures. Then, after the money has been spent, and prices driven up—in either open or repressed fashion—then the government, in its wisdom, begins to exclaim at the horrors of inflation, blames black marketeers, greedy consumers, the rich, or whatever, and proceeds to the second monstrous punch of confiscating the money long after it has come into private ownership. Whether or not one calls this process “free market,” it remains confiscatory, unjust, statist, and a double set of implicit taxes and burdens upon the economy.

### ***Do Not Increase Taxes***

Unfortunately, one of the “lessons” that many East Europeans have absorbed from Western economists is the alleged necessity of sharply raising taxes and making them progressive. Taxes are parasitic and statist; they cripple energies, savings, and production. Taxes invade and aggress against the rights of private property. The higher the taxes, the more the economy becomes socialistic; the lower they are, the closer the economy approaches true freedom and genuine privatization, which means a system of complete rights of private property. The Mazowiecki attempt to achieve privatization and free markets in Poland was greatly hampered by the imposition of far higher and progressive taxes.

As part of the shift toward freedom and desocialization, then, taxes should be drastically lowered, not raised.

### ***Government Firms Owning Each Other is Not Privatization***

I owe to Dr. Yuri Maltsev the information that the much-vaunted Shatalin plan for the Soviet Union, which was supposed to bring about privatization and free markets in 500 days, was really not privatization at all. Apparently, existing government firms in each industry, instead of being actually privatized—that is, owned by private

individuals—would have been owned (or 80 percent owned) by other firms in the same industry. This would mean that giant state monopoly firms would continue to be state monopoly firms, and be self-perpetuating oligarchies rather than truly privately owned. Privatization must mean private property.<sup>2</sup>

## HOW TO DESOCIALIZE

The following points of desocialization must necessarily be written or read sequentially, but they need not be carried out in that manner: all the following points could, and should, be instituted immediately and all at once.

### *Legalize the Black Market*

The first two planks are implicit in the previous part of this paper. One, is to legalize the black market, that is to make all markets free and legal. That means that the private property of all those engaging in such markets must, along with everyone else, be made secure from government depredation, secure as a right of ownership. It means also that all goods and services hitherto illegal are now to be legal, whether they are legal in the West or not, and that all transactions are to be engaged in freely, that is, that prices are to be set voluntarily by the exchanging parties. Thus, all government price control is to be abolished forthwith. If such genuine prices for real transactions are to be higher than pseudo—"prices" set by the government for non-existent transactions, then so be it. Consumer griping should simply be ignored; any consumers who still prefer the previous regime of fixed prices for nonexistent goods will, of course, be free to boycott the

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<sup>2</sup>Maltsev writes: "When the Soviets say privatization, however, they don't mean what we do by the term. The [Shatalin] plan would mandate that 80 percent of the stock of any enterprise be owned by other enterprises in the same field, not the public. To use a U.S. analogy, it would be as if General Motors owned 80 percent of Ford's stock and vice versa, and it were illegal to have it otherwise." Maltsev notes that Stanislav Shatalin, and the original author of his plan for the Russian Republic, Grigory Yavlinsky, "are both econometricians whose . . . lives have been spent in anathematizing the delusions of Marxism-Leninism. They are both long-time central planners who became disillusioned with full-blown socialism. Yuri N. Maltsev, "A 500-Day Failure?" *The Free Market* 8 (November 1990): 6.

new prices and try to find cheaper sources of supply elsewhere. My hunch, however, is that consumers will adjust soon enough to these one-shot changes, especially since unprecedented abundance of consumer goods will quickly pour forth onto the markets.

By “legalizing,” by the way, I mean simply abolishing a previous outlaw status; I do not propose to engage in semantic exercises trying to distinguish between “legalizing” and “decriminalizing.”

### ***Drastically Lower All Taxes***

Another implication of our previous analysis is that taxation should be cut drastically. There is, in the literature on taxation, far too much discussion about which types of taxes are to be imposed, and who is to pay them and why, and not nearly enough on the height or amount of taxes to be levied. If the tax rate is low enough, then the form or principles of tax distribution really makes very little difference. To put it starkly, if all tax rates are kept below one percent, then it really does not matter much economically whether the taxes are on incomes, sales, excises, property, or capital gains. It is important instead to focus on how much of the social product is to be siphoned off to the unproductive maw of government, and to keep that burden ultra-minimal.

While the form of taxation would not then matter economically, it would still matter *politically*. An income tax, for example, however low, would still maintain an oppressive system of secret police ready and willing to investigate everyone’s income and spending and hence his entire life. Economists’ opinion to the contrary, there is no tax or system of taxes that could be neutral to the market.<sup>3</sup> Whatever taxation that might exist after desocialization should, however, be as close to neutral as possible. This would mean, in addition to very low rates and amounts, that the taxation be as unobtrusive and harmless as possible, and imitate the market as closely as it can. Such imitation might include the voluntary sale of goods and services at a price, or setting a price for participating in voting. The sale of goods or services by the government would, of course, be drastically limited in our desocialized system, because of the enormous scope of privatization of government activities. Privatization will be treated below.

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<sup>3</sup>See Murray N. Rothbard, “The Myth of Neutral Taxation,” *Cato Journal* 1 (Fall, 1981): 519–84; included in this volume as chapter 24.

### *Abolish the Government's Ability to Create Money*

There are three parts to any government's ability to generate revenue: taxation, the creation of new money, and the sale of goods or services.<sup>4</sup> There can be no genuine free market or desocialization so long as government is permitted to *counterfeit* money, that is create new money, whether it be paper tickets or bank deposits, out of thin air. Such money creation functions as a hidden and insidious form of taxation and expropriation of the property and resources of producers. Ending counterfeiting means getting the government out of the money business, which in turn implies eliminating both government paper money and central banking. It also means denationalizing currency units, such as the ruble, forint, zloty, etc., and returning them to private market hands. Denationalizing currency can only be achieved by redefining paper currencies in terms of units of weight of a market metal, preferably gold. When the central banks are liquidated, they could disgorge their gold hoards; as their last act on earth they could redeem all their paper tickets at the redefined weight in gold coins.

While, given the will to desocialize, this monetary denationalizing process is not as complex or difficult as it may first seem, it might indeed take longer than the one day required for the other parts of our plan.<sup>5</sup> There could then be transitional steps of a few days' length: that is, the ruble or forint could be allowed to fluctuate freely and be convertible at market exchange rates into other currencies. It would still be imperative to take the money-creating power out of the hands of the national government; a possible way of doing that, and a second transitional step, would be to make the ruble convertible into harder currencies, such as the dollar, at some fixed rate. Pending return to a pure gold standard and liquidation of the central bank, it would also be important to curb the government's power to create money by freezing permanently all central bank activities including open market operations, loans, and note issues. It need hardly be added that a law or edict limiting or freezing the

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<sup>4</sup>A fourth form of revenue, borrowing from the public, is strictly dependent on the other three sources.

<sup>5</sup>See Yuri N. Maltsev, "A One Day Plan for the Soviet Union," *Antithesis* 2 (January/February 1991): 4, and in the earlier account, "The Maltsev One-Day Plan," *The Free Market* (November 1990): 7.

government itself is not an act of intervention into the economy or society. Quite the contrary.

Just as black markets and all private markets would be set free, so too private credit institutions, for the lending of savings or the channeling of the savings of others, would be set free to develop.

### ***Fire the Bureaucracy***

A question may have occurred to the reader: If taxation is to be drastically lowered, and the government is to be deprived of its power to print or create money, then how is the government going to finance its expenditures and operations? The answer is: It wouldn't have to, because there would be precious little left for government to do. (This will be explained further in the discussion of privatization below.) The socialist economy is a command economy, staffed and run by a gigantic bureaucracy. That bureaucracy would immediately be fired, its members set free at long last to find productive jobs, and develop whatever productive abilities they might have, in the now rapidly expanding and flourishing private sector.

This brings us to a fascinating problem which, while resting long in the hearth and minds of the oppressed subjects of socialism, has now unexpectedly become a live political issue. What is to be done with and to the top Communist party cadre, to the *nomenklatura*, to the vast apparatus of the once all-powerful secret police? Should justice at last be meted out to them by a series of state-crime trials, followed by proper and condign punishment? Or should bygones be bygones, a general amnesty be declared, and ex-KGB men hired as private guards or detectives? I confess an ambivalence on this issue, in weighing the competing claims of justice and of social peace. Fortunately, the decision can be left to the peoples of the former Soviet Union and of Eastern Europe. There is not much that an economist, even a free-market economist, can say to resolve this issue.

### ***Privatize or Abolish Government Operations***

This brings us to the final, but scarcely the least important, plank of our proposed desocialization platform: privatizing government operations. Since theoretically all, or in practice *most*, production in socialist countries has been in the hands of the State, the most important desideratum, the crucial route for attaining a system of

private property and free market, must be to privatize government operations.

But simply to say “privatize” is not enough. In the first place, there are many government operations, especially in socialist states, that we don’t *want* to privatize, but rather to abolish completely. For example, we would not, as libertarians and desocializers, wish to privatize concentration camps, or the Gulag, or the KGB. God forbid that we should ever have an *efficient* supply of concentration-camp or secret police “services”!

Here is a point that needs to be underlined. The basic assumption of national income and GNP analysis is that all government operations are productive, that they contribute their expenses to the national output and the common weal. But if we truly believe in freedom and private property, we must conclude that many of these operations are not social “services” at all but *disservices* to the economy and society, “bads” rather than “goods.”

This means that desocialization must involve the abolition, not the privatization, of such operations as (in addition to concentration camps and secret police facilities) all regulatory commissions, central banks, income tax bureaus, and, of course, all the bureaus administering those functions that are going to be privatized.<sup>6</sup>

### ***Principles of Privatization***

Genuine goods and services, then, are to be privatized. How is this to be accomplished? In the first place, private competition with previous government monopolies is to be free and unhampered. This would legalize not only the black market, but all competition with existing government operations. But what about the massive

<sup>6</sup>It is important to realize that if a government activity is a bad rather than a good, we would want its exercise, so long as it exists, to be as inefficient rather than as efficient as possible. One of the most hated organizations in early modern Europe was the “tax farmer,” who purchased from the king the right to collect taxes for a certain term of years. We might consider: would we want income taxes to be privatized, and collected, fully armed with state power, by IBM or McDonald’s rather than the IRS? The industrialist Charles F. Kettering is supposed to have cheered up a friend in the hospital, who was complaining about the accelerated growth of government: “Cheer up, Jim, thank God we don’t get as much government as we pay for.”

accumulation of government firms and capital assets themselves? How are they to be privatized?

Several possible routes have been suggested, but they can be grouped into three basic types. One is egalitarian handouts. Every Soviet or Polish citizen receives in the mail one day an aliquot share of ownership of various previously state-owned properties. Thus, if the XYZ steel works is to be privately owned, then, if there are 300 million shares of XYZ steel company issues, and 300 million inhabitants, each citizen receives one share, which immediately becomes transferable or exchangeable at will. That this system would be impossibly unwieldy is evident. The number of people would be too much and shares too few to allow every person to have a share, and there would be shares of innumerable large numbers and varieties that would quickly descend upon the heads of the average citizen. Much of this chaos would be eliminated in the suggestion of Czech finance minister Vaclav Klaus, who proposes that each citizen receive basic certificates, which could be exchanged for a certain number or variety of shares of ownership of various companies on the market.

But even under the Klaus plan, there are grave philosophical problems with this solution. It would enshrine the principle of government handouts, and egalitarian handouts at that, to undeserving citizens. Thus would an unfortunate principle form the very base of a brand new system of libertarian property rights.

It would be far better to enshrine the venerable *homesteading* principle at the base of the new desocialized property system. Or, to revive the old Marxist slogan: "all land to the peasants, all factories to the workers!" This would establish the basic Lockean principle that ownership of owned property is to be acquired by "mixing one's labor with the soil" or with other unowned resources. Desocialization is a process of depriving the government of its existing "ownership" or control, and devolving it upon private individuals. In a sense, abolishing government ownership of assets puts them immediately and implicitly into an *unowned* status, out of which previous homesteading can quickly convert them into private ownership. The homestead principle asserts that these assets are to devolve, not upon the general abstract public as in the handout principle, but upon those who have actually worked upon these resources: that is, their respective workers, peasants, and managers. Of course, these rights are to be genuinely *private*; that is, land to individual peasants, while capital goods

or factories go to workers in the form of private, negotiable shares. Ownership is not to be granted to collectives or cooperatives or workers or peasants holistically, which would only bring back the ills of socialism in a decentralized and chaotic syndicalist form.

It should go without saying that these ownership shares, to be truly private property, must be transferable and exchangeable at will by their holders. Many current plans in the socialist countries envision "shares" which must be held by the worker or peasant and, for a term of years, could only be sold back to the government. This clearly violates the very point of desocialization. Other suggested plans impose severe restrictions upon the transfer of ownership to foreigners. Once again, genuine privatization requires complete private property, including sale to foreigners. There is, furthermore, nothing wrong with "selling the country" to foreigners. In fact, the more that foreigners purchase "the country" the better, for it would mean rapid injections of foreign capital, and therefore more rapid prosperity and economic growth in the impoverished socialist bloc.

A problem immediately arises in granting shares to workers in the factories, a problem akin to the question what is to be done with the Communist cadre and the KGB: Should the managing *nomenklatura* be cut in on the shares of ownership? In advising the Soviets in an address in Moscow in early 1990, the economist Paul Craig Roberts observed that the Soviet people could either cut the throats of the *nomenklatura* or cut them in on shares of ownership; for the sake of social peace and smooth transition to a free economy, he recommended the latter. As I wrote above, I would not be that quick to thwart the demands of justice; but I would like to point out again a third possible route: not doing either one, and freeing the *nomenklatura* to find productive jobs in the private sector. The philosophic point in contention is to what extent, if at all, the managers' activities in the old Soviet economy were productive, and therefore participant in homesteading-labor, and to what extent they were crippling and counter-productive, and therefore deserving of nothing better than a curt dismissal.<sup>7</sup>

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<sup>7</sup>Yuri Maltsev recommends adoption of the homesteading plan, with the Vaclav Klaus distribution scheme to be adopted in cases where homesteading would not be feasible. Maltsev, "A One-Day Plan for the Soviet Union."

A third commonly suggested route to privatization deserves to be rejected out of hand: that the government sell all its assets to the public at auction, to the highest bidder. One grave flaw in this approach is that since the government owns virtually all the assets, where would the public get the money to purchase them, except at a very low price that would be tantamount to free distribution? But another, even more important flaw hasn't been sufficiently stressed: why does the government deserve to own the revenue from the sale of these assets? After all, one of the main reasons for desocialization is that the government does not deserve to own the productive assets of the country. But if it does not deserve to own the assets, why in the world does it deserve to own their monetary value? And we do not even consider the question: What is the government supposed to do with the funds after they have been received?<sup>8</sup>

A fourth principle of privatization should not be neglected; indeed, it should take priority. Unfortunately, by the nature of the case this fourth route cannot be made into a general principle. That would be for the government to return all stolen, confiscated property to its original owners, or to their heirs. While this can be done for many parcels of land, which are fixed in land area, or for particular jewels, in most cases, especially capital goods, there are no identifiable original owners to whom to restore property.<sup>9</sup> In the nature of the case, finding original landowners is easier in Eastern Europe than in the Soviet Union, since far less time has elapsed since the original theft. In the case of capital goods built by the State, there are no owners to identify. The reason why this principle should take priority wherever it applies is because property rights imply above all restoring stolen property to original owners. Or to put it another way:

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<sup>8</sup>One leading argument for the government selling its assets is that this process would have the anti-inflationary effect of sopping up the dread "ruble overhang." The fallacy in this egregious argument is that, unless the government officials propose to have a mass public bonfire of the rubles, the overhang would not be reduced at all. The government would spend the rubles, and they would remain in circulation.

<sup>9</sup>In Hungary the Smallholders Party was formed to stress priority in privatization to returning land to the expropriated landholders of Southern Hungary.

An asset becomes philosophically unowned, and therefore available to be homesteaded, only where an original owner, if one had existed, cannot be found.

There is one nagging remaining problem: How large should the newly private firms be? Every industry in socialistic countries is generally locked into a monopoly firm, so that if each firm is privatized into an equivalent-sized firm, the size of each will be far larger than the optimum on the free market. A fundamental problem, of course, is that there is no way for anyone in a socialized economy to figure out what the optimum size or number of firms is going to be under freedom. In a sense, of course, mistakes made in the shift to freedom will tend to iron themselves out after a free market is established, with tendencies to break up or to consolidate in the direction of optimum size and number. On the other hand, we must not make the mistake of blithely assuming that the costs or inefficiencies of this process may be disregarded. It would be preferable to come as close as possible to the optimum in the initial privatization. Perhaps each plant, or each group of plants in an area, may be initially privatized as a separate firm. It goes without saying that a very important aspect of a free market and of this optimizing process is to allow the market complete freedom to work: e.g., to merge, combine, or dissolve firms as it proves profitable.

## **CONCLUSION**

The dimensions of the proffered Rothbard Plan for desocialization should now be clear: (1) Enormous and drastic reductions in taxes, government employment, and government spending. (2) Complete privatization of government assets: where possible to return them to the original expropriated owners or their heirs; failing that, granting shares to productive workers and peasants who had worked on these assets. (3) Honoring complete and secure property rights for all owners of private property. Since full property rights imply the complete freedom to make exchanges and transfer property, there must be no government interference in such exchanges. (4) Depriving the government of the power to create new money, best done by a fundamental reform that at one and the same time liquidates the central bank and uses its gold to redeem its notes and deposits at a newly defined unit of gold weight of existing currencies.

All this could and should be done in one day, although the monetary reform could be done in steps taking a few days.

One point we have not specified: precisely how low should taxes or government employment or spending be set, and how complete should be the privatization? The best answer is that of the great Jean-Baptiste Say, who should be known for many other things than Say's Law: "The best scheme of [public] finance is, to spend as little as possible; and the best tax is always the lightest."<sup>10</sup> In short, that government is best that spends and taxes and employs the least, and privatizes the most.

A final point: I have been criticized by libertarian colleagues for proposals of this sort because they involve action by government. Isn't it inconsistent and statist for a libertarian to advocate any government action whatever? This seems to me a silly argument. If a thief has stolen someone's property, it is scarcely upholding "robber-action" to advocate that the robber disgorge his stolen property and return it to its owners. In a socialist state, the government has arrogated to itself virtually all property and power of the country. Desocialization, and a move to a free society, necessarily involves the action of that government's surrendering its property to its private subjects, and freeing those individuals from the government's network of controls. In a deep sense, getting rid of the socialist state requires that state to perform one final, swift, glorious act of self-immolation, after which it vanishes from the scene. This is an act which can be applauded by any lover of freedom, act of government though it may be.

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<sup>10</sup>Jean-Baptiste Say, *A Treatise on Political Economy*, 6th ed. (Philadelphia: Claxton, Remsen & Haffelfinger, 1880), p. 449. Also see Rothbard, "The Myth of Neutral Taxation," pp. 551–54.

## **Section Four**

### **Taxation**



# 24

## The Myth of Neutral Taxation

A neutral mode of taxation is conceivable that would not divert the operation of the market from the lines in which it would develop in the absence of any taxation.

Ludwig von Mises, *Human Action* (1949)

Economists have long believed that government's tax and expenditure policy either is, or can readily be made to be, neutral to the market. Free-market economists have advocated such neutrality of government, and even economists favoring redistributive actions by government have believed that the service activities and the redistributive activities of government can easily be distinguished, at least in concept. The purpose of this paper is to examine the nature and implications of fiscally neutral government; the paper argues that all government activities necessarily divert incomes, resources, and assets from the market, and therefore that the quest for a neutral tax or expenditure policy is an impossible one and the concept a myth.

### STRUCTURE OF THE FREE MARKET: CONSUMERS AND INCOMES

To evaluate the idea of a neutral government, we must first define what neutrality to the market may be. Any firm or institution is neutral to the market when it functions as *part* of the market. That is, both General Motors and Mom and Pop's Candy Store are part of the market, and insofar as their activities remain within the market, they are neutral to it.<sup>1</sup>

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Originally appeared in *Cato Journal* (Fall, 1981): 519–64.

<sup>1</sup>Thus lobbying or other government-related activities by any business firm would not be neutral to the market.

We may analyze market institutions according to the following categories: (a) what and how much they produce, and (b) how much and from where the institution receives monetary funds. For every institution produces goods or services and receives money.

There are two types of market institutions. One is the business firm. The firm is guided by its expectations of monetary income from customers in payment for its products. The firm receives funds from two sources: (b<sub>1</sub>) customer expenditures, and (b<sub>2</sub>) entrepreneurial investments. Entrepreneurial investments are monies invested in the firm to purchase or hire factors of production to make goods and services to be sold to customers. The investments are savings spent in anticipation of greater returns from selling products to customers. Although the conspicuous resource and production decisions in the market are made by capitalist-entrepreneurs—by the owners of the firm and its capital assets—these decisions are made in accordance with their expectations of monetary income from customers. In short, businessmen are guided by the quest for monetary profits and the wish to avoid monetary losses, and their forecasting and anticipations must turn out to be good enough to reap profits from their production decisions. The intake of investment funds into the firm, then, is subordinate to the expected profit to be made from sales to customers.

Business firms and the structure of capital assets in the economy, as Austrian School economists have shown, are not a homogeneous lump: Production is a structure of stages, a latticework that moves from the most “roundabout” processes of production—the stages of production most remote from the consumers—down to nearer processes, and finally down to the production and sale of goods and services to the ultimate consumers.<sup>2</sup> The ham sandwich at the local coffee shop begins with the mining of ore for tools and machines and the growing of grain to feed hogs, and continues in stage after stage down through the wholesale and retail stages, until it arrives in the maw of the final buyer, the consumer. Thus, for our purposes, we can short-circuit the structure and refer to the *consumer* as the basic source of the income of business firms; ultimately, it is consumer

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<sup>2</sup>On the structure of production and capital, see among other works, Eugen von Böhm-Bawerk, *Capital and Interest*, 3 vols. (South Holland, Ill.: Libertarian Press, 1959), and Ludwig M. Lachmann, *Capital and Its Structure* (Kansas City: Sheed Andrews and McMeel, 1978).

demand that provides profits or losses to business firms and either vindicates or not prior production decisions by investors.

Investments that bring money into the firm in anticipation of consumer demand, ( $b_2$ ), consist of two parts. The basic investment ( $b_{2a}$ ) is investment by the owner or owners of the firm in the form of personal savings, partnerships, or investment in corporate stock. Auxiliary investment ( $b_{2b}$ ), are loans to the owners of the firm by other capitalists, either in the form of short-term credit or long-term debentures. The willingness of the firm's owners to pay a fixed-interest return to lenders is, of course, a function of their anticipated profit in selling the product to the consumers. Willingness to pay interest will always be less than or equal to the anticipated profit rate; and in the long-run general-equilibrium world of changeless certainty—a world that has never and can never come into existence—the rate of return would be equal throughout the market economy. In that world, the rate of profit in every firm would be equal to the rate of interest on loans.<sup>3</sup>

For market firms, therefore, there is no mystery about the determination of their production decisions and income. The former are determined by firms' anticipation of consumer demand, and the latter by the reality of that demand. Hence, firms receive their income, in the final analysis, from serving consumers. The more efficiently and ably the firms anticipate and serve consumer demand, the greater their profits; the less ably, the less their profits and the more they suffer losses.

Finally, the owners of the factors of production—land, labor, and capital goods—receive their income *in advance of production* from the investor-owners of the firm. The more ably and productively a factor or factors are believed to serve consumer demand, the greater the

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<sup>3</sup>Both would be determined by the social rate of time preference as determined on the market, the premium of present as compared with future goods—an agio which would be the resultant of all the time-preference schedules by individuals on the market, in much the same way as consumer demand is the embodiment of the marginal-utility schedules of individuals. See Murray N. Rothbard, *Man, Economy, and State*, 2nd ed. (Los Angeles: Nash, 1970), vol. 1, chap. 6; Frank A. Fetter, *Capital, Interest, and Rent: Essays in the Theory of Distribution* (Kansas City: Sheed Andrews and McMeel, 1977), pt. 2.

demand for those factors by the owners, and the higher their income. Since capital goods themselves form part of the structure of production, ultimately factor incomes consist of the income from the exertion of labor energy (wages, salaries), the use of land (land rents), and the transfer of money (a present good) in exchange for anticipated future income (a future good)—that will yield interest (or long-run profit) for time preference, and entrepreneurial profits or losses. All these factor incomes then, are tied to the efficient service of anticipated consumer demand.<sup>4</sup>

Incomes to factors and entrepreneurs on the market, therefore, are tied inextricably to the effective satisfaction of consumer demand, a satisfaction that depends on the successful forecasting of the market conditions that will exist when and after the goods or services are produced. Income to the firm and to factors from consumers is linked inextricably to the satisfaction the consumers derive. In a deep sense, therefore, income to producers on the market reflects benefits to consumers.

The crucial point is that when consumers spend, they benefit, because the expenditures are voluntary. The consumers buy product X because they decide that, for whatever reason, it would benefit them to buy that product rather than use the money on some other product or save or add to their cash balances. They give up money for product X because they expect to prefer that product to whatever they could have done with the money elsewhere; their preference reflects a judgment of relative benefit from that, as compared to another, purchase. In my own terms, spending choices by consumers demonstrate their preference for one, as compared to another, way of using their money.<sup>5</sup>

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<sup>4</sup>That is, each unit of each factor will tend to receive its discounted marginal revenue product, its marginal value productivity discounted by the rate of interest. So each unit of land and labor will tend to receive its DMRP, and the capitalist (or lender) will receive the discount (in the form of interest or long-run profit). Only in the never-never land of general equilibrium would each factor always receive its DMRP; in the real world, the positive or negative differences would reflect entrepreneurial profits and losses. See Rothbard, *Man, Economy, and State*, chap. 7.

<sup>5</sup>On the concept and implications of “demonstrated preference,” see Murray N. Rothbard, *Toward a Reconstruction of Utility and Welfare Economics*

And that is not all. The profit-and-loss tests of the market, the rewarding of effective producers and forecasters and the punishing of ineffective ones, ensures that the overall ability at any time of entrepreneurs to forecast and satisfy consumer demands will be high. Good forecasters will be rewarded with higher profits and incomes; poor forecasters will suffer losses and finally leave the business. So that the market *tendency* is toward a high level of fit between anticipation and reality, and for a minimum of erroneous investment. Producer income, therefore, reflects consumer benefit even more closely than we might at first realize.<sup>6</sup>

The second type of market institution—after the business firm—is the voluntary nonprofit membership organization: the bridge club, lodge, ideological organization, or charitable agency. Here, too, income and benefit are cognate. Income is no longer divided between investors and consumers. All income is obtained from members, either in the form of regular dues or systematic or occasional donations. The purpose of the organization is not to earn a monetary profit, but to pursue various purposes desired by the income-paying members. In a sense, then, the members are the “consumers,” except that they consume the services of the organization not by purchasing a product but by helping the organization pursue its goals. The member-donors are at the same time the consumers and the investors, the consumers and the makers of the production decisions.<sup>7</sup> The organization will employ as much of its resources as the member-consumer-donors desire to contribute to the pursuit of their goals.

(New York: Center for Libertarian Studies, 1977), esp. pp. 2–7, 26–30; included in this volume as chapter 17.

<sup>6</sup>This, however, is a long way from saying, with conventional neoclassical economists, that general equilibrium and perfect knowledge are facts of reality, or, with the rational-expectations economists, that the market always perfectly forecasts the future. If this were true, there would be no room for entrepreneurship at all, and the most dynamic and vital aspect of the market economy would go unremarked and unexplained. See Gerald P. O'Driscoll, Jr., “Rational Expectations, Politics, and Stagflation,” in *Time, Uncertainty, and Disequilibrium: Exploration of Austrian Themes*, Mario J. Rizzo, ed. (Lexington, Mass.: Lexington Books, 1979), pp. 153–76.

<sup>7</sup>For convenience, “members” and “donors” shall be used interchangeably throughout, although in many cases donors are technically not “members” of the organization.

Membership organizations, while clearly part of the market, are necessarily limited in their scope, for they do not follow the division of labor necessary for most market production. In virtually all other cases of production, the producers and the consumers are not one and the same: The producers of steel bars do not, Heaven forfend, use up those selfsame bars in their own consumption. They sell the bars for money and exchange the money for other goods that they would like to consume. In the case of membership organizations, however, the member-investors are the consumers of the service.

Even where the explicit goals of the organization are to help non-donors, this rule—that the consumers guiding production decisions are the donors—still applies. Suppose, for example, the organization is a charity giving alms to the poor. In a sense, the purpose is to benefit the poor, but the actual consumers here, the guides to production decisions, are the donors, not the recipients of charity. The charity serves the purposes of the donors, and these purposes are in turn to help the poor. But it is the *donors* who are consuming, the donors who are demonstrating their preference for sacrificing a lesser benefit (the use of their money elsewhere) for a greater (giving money to the charity to help the poor). It is the donors whose production decisions guide the actions of the charity.

In this case, presumably, the donors themselves will be guided, in their turn, by how effective the organization is in ministering to the poor. But the ways of judging this effectiveness lack the precision of monetary purchase, or profit and loss. They depend on subjective interpretation by the donors, an interpretation that is necessarily subject to a great deal of error. Donors, in the same way, are the consumers regardless of the purpose of the nonprofit organization, whether it is chess playing, medical research, or ideological agitation. In all these cases, precise profit-and-loss tests of effectiveness are lacking; in all these cases, too, donors voluntarily pursue their activity, preferring it to other uses of their resources.<sup>8</sup>

Nonprofit organizations also purchase and hire factors of production. To a large extent, these organizations compete with business

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<sup>8</sup>The lack of precise guidance in nonprofit organizations is not a criticism of their existence; this lack is simply a part of the nature of the case, and it is taken into account by the donors when they make their “investment” decisions in the organization.

firms for factors; to that extent, they must pay the factors at least the discounted marginal product they can earn elsewhere. To some extent, however, the factors may be specific to these organizations; to that extent their marginal product incorporates their service to the donor-consumers, that is, the extent to which they pursue the same goal as the sources of income. Thus, in both the profit-making and the nonprofit sectors, in their different forms, production decisions are guided by service to the consumers. The main difference is that in the case of business firms, the consumers are separate from the producers, and (we hope) recoup producers' investments by buying the products of the firm; while in nonprofit organizations, the consumers are the donor-investors.

We have been describing two polar cases: the business firm, and the nonprofit organization. Probably most real-world institutions on the market fall into one of these categories. In some cases, however, an organization can partake of both modes. Let us consider two cases. First, a charitable organization, instead of, or in addition to, giving away alms, may sell some products to the poor at a low, subsidized price. In this case, while the donors provide the overall thrust and guidance, part of the feedback gained by the firm is willingness to buy goods by the recipients. In some sense, the recipients of alms provide a guide to their interest in the organization. There are now two sets of consumers: the donors, and the charity recipients, each of whom demonstrates its preference for this organization in contrast to other uses for its money.<sup>9</sup> But the overall purpose of the organization is not to make a profit, but rather to serve the values and goals of the donors, and so the donors must be considered the regnant consumers in this situation.

Another case is a profit-making business firm where the owner or owners decide to accept a lesser monetary profit on behalf of some other goals of the owners: for example, because a certain line of product is considered immoral by the owners or because the owner wishes to hire incompetent relatives in order to keep peace in the family.

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<sup>9</sup>In a trivial sense, of course, being willing to accept a free gift by a charity is *also* a demonstration of preference by the recipient, but only in the trivial sense that he prefers more of a good to less. The recipient is not sacrificing any good or service in exchange.

Here once again, there are two sets of consumers—the buyers of the product, and the producers or owners themselves. Because of his own values as a “consumer,” the owner decides to forego monetary profit because of his own moral principles or because he holds keeping peace in the family high on his value scale. In either case, the owner is forgoing some monetary profit in order to achieve *psychic* profit. Which motive will dominate depends on the facts of each particular case. Since the market is generally characterized by a division of labor between producers and consumers, however, the general tendency will be for monetary profit, or service to nonowning consumers, to dominate the decisions of business firms.<sup>10</sup>

It is a basic fact that all voluntary actions are undertaken because actors expect to benefit from them. When two persons make a voluntary exchange of goods or services, they do so because each expects to benefit from the exchange. When A trades commodity X for B's commodity Y, A is demonstrating a preference—an expected net benefit—for Y over X, while B is demonstrating the opposite, a preference for X over Y. The free market is a vast latticework of two-person (or two-group) exchanges, an array of mutually beneficial exchanges up and down and across the structure of production.<sup>11</sup>

<sup>10</sup>It is curious that statist critics of the market invariably denounce “production for [monetary] profit” as greedy and selfish, and instead uphold “production for use” as unselfish and altruistic. On the contrary, producers can only make monetary profits to the extent that they serve *other* consumers. Logically, altruists should deeply admire the successful pursuit of monetary gain on the market.

It is also curious that many writers believe that the maximum-(monetary)-profit assumption for business motivation may have been true for personally owned nineteenth-century firms, but that it no longer holds for the modern corporation. On the contrary, it is precisely the modern corporation where “impersonality” of investment and producer decision will tend to dominate, since the personal wishes of single owners are no longer nearly as important. Unprofitable nepotism, for example, is far more likely to reign in the mom and pop store than in the large corporation.

<sup>11</sup>In a voluntary gift transaction, both parties also benefit; the donee benefits from the receipt of the gift and demonstrates this benefit by accepting it; the donor benefits psychically from the fact of having made the gift, and demonstrates that benefit by making it.

## ROBBERY AND THE MARKET

Having dealt with this idyll of harmonious and mutually beneficial exchanges, let us now introduce a discordant note. A thief now appears, making his living by robbing and coercively preying on others: The robber obtains his income by presenting the victim with a choice: your money or your life (or, at least, your health)—and the victim then yields his assets. Or, to be more precise, the robber presents the victim with a choice between paying immediately or waiting until the robber injures him.<sup>12</sup> In this situation both parties do not benefit; instead, the robber benefits precisely *at the expense of* the victim. Instead of the consumer's paying, guiding, and being benefited by the producer's activity, the robber is benefiting from the victim's payment. The robber benefits to the extent that the victim pays and loses. Instead of helping expand the amount and degree of production in society, the robber is parasitically draining off that production. Whereas an expanded market encourages increases in production and supply, theft discourages production and contracts the market.

It should be clear that the robber is not producing any goods and services at all. In contrast to consumers who purchase goods and services, or who contribute voluntarily to a nonprofit organization, no one is voluntarily purchasing from or contributing to our criminals at all. If they were, the criminals would not be criminal. In fact, what distinguishes a criminal group is that its income, in contrast to that of all other organizations, is extracted by the use of violence, against the wishes or consent of the victims. The criminals, then, are "producing" nothing, except their own income at the expense of others.

It has been maintained that the payments by the victims are "really" voluntary because the victim decides to transfer his funds under penalty of violence by the robber. This kind of sophistry, however, destroys the original, as well as the common-sense, meaning of the term "coercion" and renders *all* actions whatever "voluntary." But if there is no such thing as coercion and all conceivable actions are voluntary, then the distinctive meaning of both terms is destroyed. In this paper, we are defining "voluntary" and "coercion"

<sup>12</sup>Burglars, as distinct from robbers, do not confront their victims directly and so present him with no choice; but they employ physical coercion by seizing his property without his consent.

in a common-sense way: that is, “voluntary” are all actions not taken under the threat of coercion; and “coercion” is the use of violence or threat of violence to compel actions of others. Robbery at gunpoint, then, is “coercion”; the universal need to work and produce is not. In a trivial sense, the victim agrees to be victimized rather than lose his life; but surely, to call such a choice or decision “voluntary” is a corruption of ordinary language. In contrast to truly voluntary decisions, where each person is better off than he was before the prospect of exchange came into view, the robbery victim is simply struggling to cut his losses, for, in any case, he is worse off because of the entry of the robber onto the scene than he was before.

Just as the claim that the victim’s payment to the thief is “voluntary” is patently sophistical, so is it absurd to claim that the robber is “producing” some service to the victim or anyone else. The fact that the victim paid him revenue proves no demonstrated preference or value; it proves only that the victim prefers the imposition to being shot.

The robber may well spin elaborate arguments for his productivity and for his alleged benefit to the victim. He may claim that by extracting money he is providing the victim a defense from other robbers. In attempting to achieve and maintain his monopoly of loot, he may very well act against other robbers trying to muscle in on his territory. But this “service” scarcely demonstrates his productivity to the victims. Only if the victims pay the robber voluntarily can any case be made for a nexus of payment and benefit. Since payments are now coercive instead of voluntary, since the consumer has now become the victim, all arguments offered by the criminal and his apologists about why the victim should have been eager to pay the criminal voluntarily are in vain, for the stark and overriding fact is that these payments are compulsory.

The robber takes the funds extracted from the victims and spends them for his own consumption purposes. The total revenue collected by theft we may call tribute; the expenditures of the robbers, apart from the small sums spent on burglars’ tools, weapons, planning, and so on, are consumption expenses by the robbers. In this way, just as income and assets are diverted from the productive sector to the robbers, so the robbers are able to use that money (in their purchasing) to extract productive resources from the market.

We conclude, then, that the activities of thieves are most emphatically *not* neutral to the market. In fact, the robbers divert income and resources from the market by the use of coercive violence, and thereby skew and distort production, income, and resources from what they would have been in the absence of coercion. If, on the contrary, we adhere to the view that theft is voluntary and criminals productive, then criminal activities, too, would be neutral to the market, in which case the entire problem of neutrality would disappear by semantic legerdemain, and *everything* by definition would be neutral to the market because the rubric of the market would encompass all conceivable activities of man. In that case, nothing could be called "intervention" into the market. By labeling aggressive violence as "coercion" and as an interference into the market, we avoid this kind of absurd trap, and we cleave closely to the commonsense view of such concepts as "coercion," "voluntary," "market," and "intervention."

### **GOVERNMENT AS ROBBER**

We are now in a position to analyze government and its relationship to the market. Economists have generally depicted the government as a voluntary social institution providing important services to the public. The modern "public choice" theorists have perhaps gone furthest with this approach. Government is considered akin to a business firm, supplying its services to the consumer-voters, while the voters in turn pay voluntarily for these services. All in all, government is treated by conventional economists as a part of the market, and therefore, as in the case of a business firm or a membership organization, either totally or in part neutral to the market.

It is true that if taxation were voluntary and the government akin to a business firm, the government would be neutral to the market. We contend here, however, that the model of government is akin, not to the business firm, but to the criminal organization, and indeed that the State is the organization of robbery systematized and writ large. The State is the only legal institution in society that acquires its revenue by the use of coercion, by using enough violence and threat of violence on its victims to ensure their paying the desired tribute. The State benefits itself at the expense of its robbed victims. The State is, therefore, a centralized, regularized organization of theft. Its payments extracted by coercion are called "taxation"

instead of tribute, but their nature is the same. The German sociologist Franz Oppenheimer saw this clearly when he wrote that

there are two fundamentally opposed means whereby man, requiring sustenance, is impelled to obtain the necessary means for satisfying his desires. These are work and robbery, one's own labor and the forcible appropriation of the labor of others. . . . I propose . . . to call one's own labor and the equivalent exchange of one's own labor for the labor of others, the "economic means" for the satisfaction of needs, while the unrequited appropriation of the labor of others will be called the "political means."<sup>13</sup>

Oppenheimer then proceeded to identify the State as the "organization of the political means."<sup>14</sup> Or, as the libertarian writer Albert Jay Nock vividly put it:

The State claims and exercises the monopoly of crime. . . . It forbids private murder, but itself organizes murder on a colossal scale. It punishes private theft, but itself lays unscrupulous hands on anything it wants, whether the property of citizen or alien.<sup>15</sup>

Or, as Ludwig von Mises points out, this regularization establishes a systematic coercive hegemonic bond between the rulers of the State and the subject that contrasts vividly with the contractual bond of mutual benefit.

There are two different kinds of social cooperation: cooperation by virtue of contract and coordination, and cooperation by virtue of command and subordination or hegemony. Where and as far as cooperation is based on contract, the logical relation between the cooperating parties is symmetrical. They are all parties to interpersonal exchange contracts. John has the same relation to Tom as Tom has to John. Where and as far as cooperation is based on command and subordination, there is the man who commands and there are those who obey his order. The logical relation between these two classes of men is asymmetrical. There is a director and

<sup>13</sup>Franz Oppenheimer, *The State* (New York: Vanguard Press, 1926), pp. 24–27.

<sup>14</sup>Ibid.

<sup>15</sup>Albert Jay Nock, *On Doing the Right Thing, and Other Essays* (New York: Harper and Bros., 1928), p. 145.

there are people under his care. The director alone chooses and directs; the others—the wards—are mere pawns in his actions.<sup>16</sup>

In this coercive, hegemonic condition, the individual must either accept the orders of the ruler or rebel. To the extent that the person submits, this choice then subjects him to the continuing hegemony of the rulers of the State. Contrasting the contractual and the hegemonic, Mises states:

In the frame of a contractual society the individual members exchange definite quantities of goods and services of a definite quality. In choosing subjection in a hegemonic body a man neither gives nor receives anything that is definite. He integrates himself into a system in which he has to render indefinite services and will receive what the director is willing to assign to him. He is at the mercy of the director. The director alone is free to choose. Whether the director is an individual or an organized group of individuals, a directorate, and whether the director is a selfish maniacal tyrant or a benevolent paternal despot is of no relevance for the structure of the whole system.<sup>17</sup>

Mises goes on to contrast the system of contractual coordination that is responsible for much of the achievements of Western civilization with the hegemonic system embodied in the State, “an apparatus of compulsion and coercion . . . by necessity a hegemonic organization.”<sup>18</sup>

The idea that taxation is voluntary seems to be endemic among economists and social scientists, though hardly so among the general public.<sup>19</sup> But if an individual refuses to pay his assigned tax, coercion will be wielded against him, and if he resists the confiscation of his property he will be shot or jailed. Failure to pay taxes subjects one to civil and criminal penalties. There should be little need to pursue the matter beyond this, were not economists determined to deny this

<sup>16</sup>Mises, *Human Action*, p. 196.

<sup>17</sup>Ibid., p. 197.

<sup>18</sup>Ibid., p. 198. this is not to imply that Mises believed that the State could or should be abolished; instead, he believed that the world should be *preponderantly* a product of contractual relations. (Italics mine.)

<sup>19</sup>We speak here of “voluntary” in the nontrivial sense that distinguishes it from the “involuntary” or “coerced” payment to thieves.

patently obvious fact. As Joseph Schumpeter trenchantly declared: “The theory which construes taxes on the analogy of club dues or of the purchases of, say, a doctor only proves how far removed this part of the social sciences is from scientific habits of mind.”<sup>20</sup>

But if taxation is coercive and a system of organized theft, then any “services” that the government may supply to its subjects are beside the point, for they do not establish the government as voluntary or as part of the market any more than a criminal band’s providing the “service” of defending its victims from competing bands establishes that its services are voluntarily paid for. These services are not voluntarily paid for by the taxpayers, and we therefore cannot say that the taxes measure or reflect any sort of benefit. In the case of voluntary purchase on the market, as we have seen, the consumer demonstrates by his purchase that he values the good or service he buys more than the price he pays; but in paying taxes he demonstrates no such thing—only the desire not to be the recipient of further violence by the State. We have no idea how much the taxpayers would value these services, if indeed they valued them at all. For example, suppose that the government levies a tax of X dollars on A, B, C, and so on, for police protection—for protection, that is, against irregular, competing looters and not against *itself*. The fact that A is forced to pay \$1,000 is no indication that \$1,000 in any sense gauges the value to A of police protection. It is possible that he values it very little, and would value it less if he could turn to competing defense agencies. Moreover, A may be a pacifist; so he may consider the State’s police protection a net harm rather than a benefit. But one thing we do know: If these payments to government were voluntary, we can be sure that they would be substantially less than present total tax revenue. Why? Because if people were willing to pay voluntarily, then there would be no need for the apparatus of coercion so intimately wrapped up in taxation.

A second important point is that, in contrast to the market, where consumers pay for received benefits (or, in nonprofit organizations,

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<sup>20</sup>In the preceding sentence, Schumpeter wrote: “The state has been living on a revenue which was being produced in the private sphere for private purposes and had to be deflected from these purposes by political force.” Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper and Bros., 1942), p. 198n.

where members pay for psychic benefits), the State, like the robber, creates a total disjunction between benefit and payment. The taxpayer pays; the benefits are received, first and foremost, by the government itself, and secondarily, by those who receive the largess of government expenditures.

But if, under coercive taxation, tax payments far exceed benefits to the victim, *and if* benefits accrue to the government itself and to the recipients of its expenditures at the expense of taxpayers, then it should be quite clear that it is impossible for taxes ever to be neutral to the market. Taxation, whatever its size or incidence, must distort market processes, *must* alter the allocation and distribution of assets, incomes, and resources.

### **THE ALLEGED VOLUNTARINESS OF TAXATION**

Despite the fact that government and taxation are patently coercive, economists have devoted considerable energy, in numerous ways, to maintaining the contrary. If government and taxation were truly voluntary, then taxation would be akin to a market payment, and government could be deemed a part of, and therefore neutral to, the market.

By lumping government along with private expenditures as a gauge of the output of the economy, the conventional national income statisticians are implicitly assuming that government is neutral to the market because government provides those “services” that “society” desires it to supply. Government “output” is equated to the salaries paid to the bureaucracy. By employing the seemingly precise method of segregating *some* government expenses as mere “transfer payments”—the taxing of Peter to pay Paul—rather than productive purchases of goods and services, the national income statisticians are in reality making an unsupportable ideological judgment. For in what sense does the hiring of bureaucrats, or the purchasing of paper clips, add to the production of the economy and therefore become somehow voluntary, while transfer payments are frankly taxing one group to subsidize another? As we shall see further below, *all* taxation necessarily involves taking from one group to subsidize another; therefore all government expenditures, taken together, constitute one giant transfer payment.

Even if one does not go that far, it is a rare person who would not concede that at least 50 percent of government expenditures are

sheer waste, which would mean that they should not form part of the estimated national product at all. Despite his recognition of this fact, as well as the shakiness of ranking government expenses along with market expenditures, Sir John Hicks finally sees no alternative. He puts it this way:

I can see no alternative but to assume that the public services are worth to society in general at least what they cost. . . . One may feel considerable qualms about such an assumption—it is obvious that the government spends far too much on this, far too little on that: but if we accept the actual choices of the individual consumer as reflecting his preferences . . . then I do not see that we have any choice but to accept the actual choices of the government, even if they are expressed through a Nero or a Robespierre, as representing the actual wants of society.<sup>21</sup>

Elsewhere, Hicks explains that in constructing national product figures, “the social accountant . . . must work upon some convention which is independent of his individual judgment.”<sup>22</sup> It is remarkable that Hicks can find security from the shoals of individual judgment in assuming that Nero or Robespierre embody “the actual wants of society.” Can he really believe that this fictive “society” and its head of State adequately represent the preferences of individual citizens?

### ***Collective Goods***

More intellectually respectable is the contention that *insofar* as government supplies society with “collective goods” or “public goods,” it is supplying a necessary service and is in a sense voluntary and neutral to the market. Collective goods are goods that allegedly cannot be supplied on the private market because they are indivisible and therefore cannot be allocated by having individual consumers pay for their own portions of the product. No consumer can be excluded from receiving the good. Like the sun, collective goods shine on all alike, and none can be made to pay for the service. Professor Buchanan, sympathetic to the idea of an “ideally neutral fiscal system,” defines it as one that “uniquely aims at providing the social group with some

<sup>21</sup>John R. Hicks, “The Valuation of the Social Income,” *Economica* (May 1940), cited in Alex Rubner, *Three Sacred Cows of Economics* (New York: Barnes and Noble, 1970), p. 54.

<sup>22</sup>Hicks to Rubner, Sept 28, 1966. In Rubner, *Sacred Cows*, p. 54n.

'optimal' or 'efficient' quantity of collective goods and services." Then, if "the fiscal system is conceived as the means through which collective goods and services are provided to members of the society without any subsidiary or supplementary social purposes," we have, says Buchanan, an "analogy with the market economy." The fiscal system is then "ideally neutral" to the market economy.<sup>23</sup>

In the first place, even if there were such things as collective goods, government supply would establish neither its voluntarism nor its neutrality. Even if there were no other way to supply these services, taxation to provide them is *still* compulsory. And since it is coercive, there is no standard, as there is on the market, to decide *how much* of these services to supply by taxation. And the more the government provides, the less people are allowed to spend on their own private consumption.

Furthermore, if there exists but *one* anarchist in any society, the very existence of the State coercively supplying a collective good constitutes a great psychic harm to that anarchist. The anarchist, therefore, receives not a collective service but an individual harm from the operations of the State. It follows therefore that the good or service cannot be truly collective; its "service" is separable, and distinctly negative, to the anarchists. Hence, the good can neither be truly collective (indivisible, and positive) nor can it be voluntary.<sup>24</sup> No matter how "divisible" the service, furthermore, a collective good

<sup>23</sup>James M. Buchanan, *The Public Finances*, 3rd ed. (Homewood, Ill.: Richard D. Irwin, 1970), pp. 62–63.

<sup>24</sup>After identifying the essence of government as coercion, and after carefully analyzing each type of government and "political entrepreneurship," Montemartini concludes that "there are no public, or collective needs in the strict sense of the word, as opposed to private needs. It is always real individuals who calculate the advantages of imposing on the community the production of certain specific goods." And these individuals' valuations will differ: "The calculations of economic advantage differ from one associate to another when it comes to determining the needs to be satisfied collectively." Hence, the production of "collective goods" is always coercive: "The collectivization of the satisfaction of some needs always aims at a participation in the costs of economic units which would not voluntarily have so participated." Giovanni Montemartini, "The Fundamental Principles of a Pure Theory of Public Finance," in *Classics in the Theory of Public Finance*, Richard Musgrave and Alan Peacock, eds. (New York: Macmillan, 1958), pp. 150–51.

is not quite like the sum: The more resources the government expends, the greater will be its output. These resources will have to be extracted from other potential products. Take, for example, “defense” or police protection, which is often considered to be provided as a homogeneous lump to everyone. But every good or service in the world, “collective” ones included, are provided, not in lump sum, but in marginal units. Yet strangely, economists, trained to think of marginal units everywhere else, suddenly start referring to defense as a “lump” when discussing government. In reality, however, there is a vast range of “defense” services that the government (or any other defense agency) could supply to its customers. To take two polar extremes, the government could supply one unarmed policeman for an entire country, or it could sink most of the national product into providing an armed bodyguard, replete with tank and flame throwers, for every citizen. The question that must be answered by any defense agency is not whether or not to supply defense, but *how much* defense to supply to *whom*? In the same way, the question confronting a steel company is not whether or not to produce steel, but how much steel of various grades and types to supply.

But this failure to provide rational criteria for amounts and types of collective services is an inherent flaw in any provision by government. The market’s price system and profit-and-loss test tell private firms how much of what kind of steel to produce; rational criteria for satisfying consumers most efficiently are inherent in the free market. But government can have no such criteria. Since the consumers of defense do not pay for the service, since taxes do not measure the service, and since the government does not have to worry about losses that can be recouped by further taxation, there are no criteria of how much defense to provide to whom. Decisions are purely arbitrary, as well as coercive. If, on the other hand, defense were provided by private firms on the market, then these firms would, as in the rest of the market, supply efficiently the amounts and types of protection desired by particular customers. Those customers, for example, who desired and were willing to pay for round-the-clock bodyguards would do so; those who felt no need for protection—or pacifists aghast at the very idea—would pay nothing; and there might be a large spectrum of services in between.

More specifically: Only a minority of specific individuals find themselves in actual need of police or judicial protection during any

given period. If A and B are attacked, the police can spring to the aid of these specific persons. It will be objected that even if only a few persons are actually attacked at any one time, no one can determine *who* will be attacked in the future, and so everyone will want to be sure of protection in advance, thus salvaging the notion of a "collective want." But, again, there will be a spectrum of opinion among individuals. Some persons may feel pretty sure that they will not be attacked, and will therefore be willing to opt out of protection, to take their chance rather than pay a protection tax. Others will be confident of their own ability to repulse an attack, or would only patronize another, competing private defense agency. Others may fear an attack so little that the cost of paying protection will not be worth the benefit. On the free market, individuals would be free to choose any or none of these protection-insurance packages.

Even if it be conceded that not all people demand protection, it might still be argued that defense is a "collective good" because no one can be excluded from receiving its benefits. But surely if the inhabitants of a particular block refuse to pay for the police protection, the police may simply exclude that block from its patrols or other services. In the case of judicial protection, the conventional case for a collective good is even weaker. For surely a court, financed by voluntary payment (either by insurance premium or by fee-for-service), can refuse to hear the case of a nonpaying plaintiff. Even in the case of national defense, which seems to be a particularly strong example of a collective good, the pacifist or anarchist receives a harm rather than a good, and exclusion can be practiced in such ways as not rushing troops or planes to defend nonpaying areas, or at the very least not to defend them as rapidly and as diligently as areas that do pay.

Thus defense cannot be a collective good so long as only one pacifist or one anarchist exists in the society, for these persons will receive a harm rather than a benefit when they receive the "service" of coercive defense. And defense is not a collective good because its recipients *can* be excluded and separated.

Professor Kenneth Goldin is one of the very few economists to recognize that defense service is separable and not indivisible. He also points out that increased police service requires increased expense:

As communities grow, and more residents must be supplied with crime defense, most communities hire more policemen; clearly an increased cost. If more policemen are not hired, then new residents can be served only by decreasing service to others: more streets can be patrolled only if there are fewer patrols at night; more properties can be checked only if each one is checked less thoroughly, and only the more urgent calls can be responded to. Each of these service changes imposes costs on residents. Either they will suffer from more crime, or they will incur the costs of purchasing other types of crime defense. Many types of crime defense are selectively available such as locks, fences, guard dogs, guards, and also alarm companies which respond if the burglar alarm is tripped. And don't overlook private police patrols, which check selected houses on selected streets, as thoroughly and as often as each customer requests, for a fee.<sup>25</sup>

Court services are clearly separable, and private arbitrators are indeed generally more efficient than government courts. Goldin adds:

To service more persons generally requires more judges and court-rooms. If more facilities are not acquired, additional users will impose costs on others, in the form of longer days for trial and/or less judicial time spent on each case. It is costless to serve additional persons only if they have no disputes.

To some extent, he goes on, even government courts charge fees to users and therefore charge for benefits received, although the fees usually do not vary with the difficulty of the case. And "private arbitrators are also available, selectively, to those parties willing to pay a fee. So, although adjudication is a fundamental service in any society, it does not follow that adjudication is a public good."<sup>26</sup>

And even in the case of national defense, Goldin points out,

there is certainly some variation in protection, especially among cities (regarding protection by missiles), and among Americans who either travel or have property abroad. While the troops may be sent out to protect some Americans or their property from some foreign seizures (such as the Mayaguez), in other cases no action is

<sup>25</sup>Kenneth D. Goldin, "Equal Access vs. Selective Access: A Critique of Public Goods Theory," *Public Choice* 29 (Spring, 1977): 60.

<sup>26</sup>Ibid., pp. 65–66.

taken (tuna boats). One of the firmly embedded myths of modern public finance is that it doesn't matter if population increases: The costs of defending the U.S. from external attack will not change. But consider two points. First, the new population must live somewhere. If they cause an increase in the U.S. land area, then either more defenses must be provided, or there will be a decrease in the level of protection to earlier residents and either way the marginal cost of protecting additional persons is positive. . . . Second, even if the new population resides within the existing boundaries, they will generally increase the amount of physical and human wealth which might be coveted by an enemy. That is, foreign attack is (at least partially) an economically motivated action, and is more likely to occur if there is more capital worth coveting.<sup>27</sup>

Not only does total cost of national defense vary with population, but the service of protection against foreign attack can be variable. First, there once existed private armies, and such armies, serving private individuals or groups, still exist today. Goldin mentions the armies of religious groups in contemporary Lebanon, as well as a Central American army owned by Robert Vesco. These armies, as Goldin states, "yield benefits primarily to their owner."<sup>28</sup>

Second, even a collective State army can vary its services to individual citizens:

A military force also protects people from theft of property and kidnapping by foreigners. Exclusion from this service is relatively easy: The military force simply makes no attempt to stop theft or kidnapping of named persons. These persons would either hire their own guards, or suffer the damages of theft or kidnapping by foreigners. . . . Americans with substantial property abroad or at sea might well prefer to provide their own anti-theft defenses, rather than pay for a communal army which cannot be counted on to protect their property. . . . Contrary to public goods theory, even

<sup>27</sup>Ibid., pp. 60–61.

<sup>28</sup>Ibid., p. 61. Goldin amusingly adds: "A medieval lord could scarcely be a 'free rider' on a neighboring lord's defense efforts. If he did not have his own defenses, he would probably suffer attacks from his neighbor." Cf. Wicksell: "Side by side with the national army, many countries have voluntary rifle clubs and similar institutions which sometimes constitute no mean military force." Knut Wicksell, "A New Principle of Just Taxation," in *Classics in the Theory of Public Finance*, Musgrave and Peacock, eds., p. 90.

in this key case of defense from external attack, exclusion is not impossible and the marginal cost of serving additional persons generally is not zero.<sup>29</sup>

Moreover, as Buchanan concedes, a collective defense may be a service to one citizen and be considered a distinctly negative “service” by another:

The common availability of collective goods or services does not, of course, imply that similar evaluations are placed on these by different persons. The Vietnam War effort demonstrated this point. The services of the plane that bombed North Vietnam in October, 1968, were equally available to all U.S. citizens. But the value placed on these services may have ranged from significantly positive levels . . . to significantly negative levels for those who felt that continued bombing was both immoral and a barrier to peace negotiations.<sup>30</sup>

To Professor Buchanan, the “classic” example of a collective good is the lighthouse. The beams of the lighthouse are indivisible: “If one boat gets all the light beams, all boats may do likewise.”<sup>31</sup> Or, as Samuelson has put it, “A businessman could not build it for a profit, since he cannot claim a price from each user.”<sup>32</sup> The theory is that it would be virtually impossible for a lighthouse keeper to row out to each boat to demand payment for use of the light. And that hence lighthouses have always been supplied by government.

<sup>29</sup>Goldin, “Equal Access vs. Selective Access,” pp. 61–62.

<sup>30</sup>Buchanan, *Public Finances*, pp. 25–26. Buchanan errs, however, in claiming that “few persons” would place a negative value on internal law and order. Pacifists would, and how “few” they may be will vary, and their number is unknown in any case. Even the existence of one pacifist negates the very concept of defense as a collective good, just as the existence of one anarchist negates the very concept of a collective good supplied by the State.

<sup>31</sup>Ibid., p. 23.

<sup>32</sup>Paul A. Samuelson, *Economics*, 6th ed. (New York: McGraw-Hill, 1964), p. 159. In his tenth edition, Samuelson, perhaps in an unacknowledged response to Professor Coase’s noteworthy article (see below), gives the case away by adding, after “from each user” the words “without great difficulty” (p. 160). For he thereby concedes that lighthouses are not “collective goods.”

But, first, the problem has now been eliminated by modern technology. It is now technologically highly feasible for a lighthouse's rays to be available only to that boat that has the proper electronic equipment, and to pay a fee for the use of that equipment. But, apart from this, it turns out, as Ronald Coase has discovered, that from the seventeenth until the early nineteenth centuries, the British lighthouse system was developed and operated by private enterprise. The lighthouse owners hardly bothered about collecting a fee from each boat on the spot. Instead, the owners employed agents at ports who found out what routes each ship entering the port had sailed and therefore what lighthouses the ship had passed and charged them accordingly.<sup>33</sup> Furthermore, additional users of lighthouses will impose higher costs for providing them. More ships will increase the likelihood of congestion in the protected waters and will require more navigational aids.<sup>34</sup>

In his trenchant critique of the offhanded way in which economists, from Mill to Samuelson and Arrow, have wrongly used the lighthouse as an example of a collective good, Coase concludes:

These references by economists to lighthouses are not the result of their having made a study of lighthouses or having read a detailed study by some other economist. Despite the extensive use of the lighthouse example in the literature, no economist, to my knowledge, has ever made a comprehensive study of lighthouse finance and administration. The lighthouse is simply plucked out of the air to serve as an illustration. . . .

This seems to me to be the wrong approach. . . . [G]eneralizations are not likely to be helpful unless they are derived from studies of how such activities are actually carried out within different institutional frameworks. . . .

<sup>33</sup>The tolls were collected at the ports by agents (who might act for several lighthouses). . . . The toll varied with the lighthouse and ships paid a toll, varying with the size of the vessel, for each lighthouse passed. It was normally a rate per ton (say 1/4d or 1/2d) for each voyage. Later, books were published setting out the lighthouses passed on different voyages and the charges what would be made. (Ronald H. Coase, "The Lighthouse in Economics," *Journal of Law and Economics* 17 [October 1974]: 364–65)

<sup>34</sup>Goldin, "Equal Access vs. Selective Access," p. 62.

The account in this paper of the British lighthouse system . . . shows that, contrary to the belief of many economists, a lighthouse service can be provided by private enterprise. . . . The lighthouses were built, operated, financed and owned by private individuals, who could sell the lighthouse or dispose of it by bequest. The role of the government was limited to the establishment and enforcement of property rights in the lighthouse. The charges were collected at ports by agents from the lighthouses. The problem of enforcement was no different for them than for other suppliers of goods and services to the shipowner.<sup>35</sup>

The analogous navigational aid for air traffic, the services of the air-control tower, can be and is sold separately to individual consumers. Control towers will distribute radar information, for example, to whoever has radar equipment, but the equipment must be purchased by individual users. And heavier use of airspace or airport runways requires more navigational aids and therefore more expenses to service the users.<sup>36</sup>

Radio and television have been cited as collective goods since servicing another viewer allegedly involves no additional cost. But additional service is far from costless, and viewers are separable and excludable; therefore radio and TV fail both tests of a collective good. An increased viewing audience means supplying more, and more varied, programs. And new users must either be supplied with a stronger signal or may require cable or stronger antennas because of the increased congestion. Moreover, consumers are excluded now from television. To watch television programs they must buy sets and then must either pay as they go (various forms of pay TV) or else advertisers must pay, imposing on many viewers the psychic costs of

<sup>35</sup>Coase, "The Lighthouse in Economics," p. 375. As Goldin remarks, "Lighthouses are a favorite textbook example of public goods, because most economists cannot imagine a method of exclusion. (All this proves is that economists are less imaginative than lighthouse keepers.)" Goldin, "Equal Access vs. Selective Access," p. 62.

<sup>36</sup>Since commercial airports are all owned by (largely municipal) government, the pricing of their runway and other services is scarcely akin to market pricing; generally, landing and takeoff fees are set far too low to clear the market, and the resulting shortage is rationed by increased and dangerous air congestion. See Ross D. Eckert, *Airports and Congestion* (Washington, D.C.: American Enterprise Institute, 1972).

commercials. And public television imposes on its viewers the psychic costs of being subjected to lengthy requests for donations.<sup>37</sup>

Moreover, in a sense the collective goods case for radio and television proves too much. For movies may also be said to be "costless" if additional viewers fill empty seats in a theater. Must movies, too, be nationalized, be supplied only by government, and perhaps be free to all?

Research has also been termed a "collective good"; don't we all enjoy the benefits of the research and inventions of Edison, Faraday, et al., without paying for them? But of course *we do* pay for the fruits of research, and we pay separably. For we must purchase the papers or books of researchers, or pay fees for lectures, demonstrations, or consulting. Those who do not pay such fees are excluded from learning of or absorbing these new ideas. And, of course, the holders of patents and copyrights are able to obtain the income from these inventions or discoveries while excluding other producers.<sup>38</sup>

Again, this argument proves too much. For not only patents and inventions are produced by creators: There is also art, sculpture, music, literature, philosophy. Are we to say that all these products of the human spirit are "collective goods" because we cannot be fully excluded from enjoying the products of Beethoven, Shakespeare, or Vermeer? Must all artists therefore be nationalized?

Another commonly cited example of a collective good is insect control by airplane spraying. It is alleged to be impossible to exclude land underneath from being sprayed, and the marginal cost of adding more land sprayed is zero. But if new residents live in previously uninhabited areas, then extra cost is incurred in servicing them, and the same is true if they are engaged in activities that attract insects. More airplane time and fuel must be used as well as more spray. Furthermore, the airplane *could* often, if it wished, exclude specific parcels of land from its spray. And more important, many of those receiving this "service" have not wanted it and have objected to the spraying as vigorously as the pacifist has protested the use of violence in defense. Indeed, a shift in public attitudes toward chemical sprays has greatly reduced their use in recent years.

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<sup>37</sup>See Goldin, "Equal Access vs. Selective Access," pp. 64-65.

<sup>38</sup>Ibid., pp. 63-64.

But if some people consider a service such as a spray as “bad,” how can it be an indivisible, positive collective good?

Moreover, as Goldin points out, individual consumers have another option: to buy their own spray guns and spray their own property. In that case, each individual could choose and pay for the type and amount of spray that he precisely desires.<sup>39</sup>

For many reasons, then, there are no collective goods, and even if there were, as we have already seen, their supply would be coercive if furnished by government and taxation. But there is yet another vital point: For even if a good or service could only be supplied “collectively,” why must that collection be compulsory? Why couldn’t individuals pool their resources voluntarily, as in club dues, and make voluntary contributions for the supply of the service?<sup>40</sup> Or, as Gustave de Molinari argued, couldn’t a government even contract for the supply of collective services with private, competitive, and therefore more efficient firms?<sup>41</sup>

Or, as Spencer Heath urged, on the model of real estate developments, shopping centers, and hotels, couldn’t such “collective” or “public” goods as police, fire, roads, sanitation, and so on, be supplied by a large private firm with tenants paying for these services in their rents?<sup>42</sup>

<sup>39</sup>Ibid., p. 54.

<sup>40</sup>Cf., Melvin W. Reder, “Review of Baumol’s *Welfare Economics and the Theory of the State*,” *Journal of Political Economy* (December 1953): 539.

<sup>41</sup>Gustave de Molinari, *The Society of Tomorrow* (New York: G.P. Putnam’s Sons, 1904), pp. 71–72, 84–86. In earlier years, this Belgian-born nineteenth-century French economist believed that all services now supplied by government could be supplied better and more efficiently by privately competitive firms on the free market. See Gustave de Molinari, *The Production of Security* (New York: Center for Libertarian Studies, May 1977); and David M. Hart, “Gustave de Molinari and the Anti-Estatiste Liberal Tradition” (history, honors thesis, Macquarie University, Australia, 1979).

<sup>42</sup>Spencer Heath, *Citadel, Market and Altar* (Baltimore, Maryland: Science of Society Foundation, 1957). For the most developed work on the Heathian proposal, see Spencer Heath, *The Art of Community* (Menlo Park, Calif.: Institute for Humane Studies, 1970). Disney World is a spectacular example of a successful business firm supplying all of these services out of tourists’ fees.

Finally, if we look at human history, we find that every good, without exception, that economists glibly term a “collective good” has actually been successfully supplied by the free market. Not only do private guards and patrols exist, and private lighthouses in the past, but there have been societies, such as medieval Ireland, that supplied a complex network of defense service and insurance—including police, crime insurance, and competitive courts—without a State or taxation. Competing market courts serviced for centuries the vitally important fairs of Champagne in the Middle Ages. Common-law courts were marked by competitive, nongovernmentally appointed judges. Private guards and private arbitrators exist successfully even in our society where the State monopolizes most forms of defense.<sup>43</sup>

It seems clear, then, that voluntary rather than governmental supply of the collective good would be possible in every case; the only objection might be, not that the good—defense, firefighting, or whatever—*could not* be supplied, but that “too little” would be supplied. But that brings us to the second line of argument by the proponents of government.

### *External Benefits*

If forced to retreat from the “strong” concept of collective goods, the advocates of government supply or subsidization of such goods, fall back on a “weak,” and therefore more plausible argument. Even though every collective good might be furnishable by private means, “not enough” will be supplied because of the difficulty or impossibility of capturing enough payment from “free riders” who benefit from these services without paying for their benefits. Government supply, or taxation of free riders to subsidize supplies, then becomes required in order to “internalize the external benefits” acquired, but not paid for, by the free riders.<sup>44</sup>

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<sup>43</sup>Thus see Joseph R. Peden, “Property Rights in Celtic Irish Law,” *Journal of Libertarian Studies* 1 (Spring, 1977): 81–95; Bruno Leoni, *Freedom and the Law* (Los Angeles: Nash, 1972); and William C. Wooldridge, *Uncle Sam the Monopoly Man* (New Rochelle, N.Y.: Arlington House, 1970).

<sup>44</sup>Gordon Tullock advances the curious argument that revolutions are impossible (or virtually so) because individual revolutionaries work and sacrifice whereas the entire public reaps the benefits; hence the public are free

But this argument generates far more difficulties than it solves. It proves too much in many directions. In the first place, *how much* of the deficient good should be supplied? What criterion can the State have for deciding the optimal amount and for gauging by how much the market provision of the service falls short? Even if free riders benefit from collective service X, in short, taxing them to pay for producing more will deprive them of unspecified amounts of private goods Y, Z, and so on. We *know* from their actions that these private consumers wish to continue to purchase *private* goods Y, Z, and so on, in various amounts. But where is their analogous demonstrated preference for the various collective goods? We *know* that a tax will deprive the free riders of various amounts of their cherished private goods, but we have *no idea* how much benefit they will acquire from the increased provision of the collective good; and so we have no warrant whatever for believing that the benefits will be greater than the imposed costs. The presumption should be quite the reverse. And what of those individuals who dislike the collective goods, pacifists who are morally outraged at defensive violence, environmentalists who worry over a dam destroying snail darters, and so on? In short, what of those persons who find other people's good their "bad"? Far from being free riders receiving external benefits, they are yoked to absorbing psychic harm from the supply of these goods. Taxing them to subsidize more defense, for example, will impose a further twofold injury on these hapless persons: once by taxing them, and second by supplying more of a hated service.

Since the tax-and-subsidy, or government-operation, route abandons the process of the market, there is no way of knowing who

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riders on the efforts of revolutionaries. (Gordon Tullock, "The Paradox of Revolution," *Public Choice* 9 [Fall, 1971]: 89–99). If he were consistent, Professor Tullock should therefore advocate that government tax people and subsidize revolutionaries in order to solve the problem of "underproduction of revolution!" In point of fact, of course, revolutions do take place from time to time, and they occur because much of the public has placed high on their values scales the success of the revolution. In short, a strongly held ideology among the public can overcome the free-rider problem for revolution. People's "interest" is not only job or immediate monetary payment, but also the attainment of such concepts as justice, liberty, and so on, none of which has any place in the economic calculus of the public-choice theorists.

the “negative free riders” are, and how much they will be suffering from an increased tax. We do have a pretty good idea, however, that one or more of these people exists: that there is at least one pacifist, anti-dam environmentalist, anarchist opposed to all government actions, and so on, in every society. But in that case, the free-rider as well as the “stronger” collective-good argument for the neutrality of government falls to the ground.

The young Herbert Spencer, in his great treatise *Social Statics*, declared that an individual should be able to opt out of taxation, to “ignore the State,” and to renounce its services.<sup>45</sup> Criticizing his own work a half-century later, Spencer, in his *Autobiography*, employs the free-rider argument. “Mr. Spencer,” he charges,

actually contends that the citizen may properly refuse to pay taxes, if at the same time he surrenders the advantages which State aid and State protection yield him! But how can he surrender them? In whatever way he maintains himself, he must make use of sundry appliances which are indirectly due to governmental organization; and he cannot avoid benefiting by the social order which government maintains. Even if he lives on a moor and makes shoes, he cannot sell his goods or buy the things he wants without using the road to the neighboring town, and profiting by the paving and perhaps the lighting when he gets there. And, though he may say he does not want police guardianship, yet, in keeping down footpads and burglars, the police necessarily protect him, whether he asks them or not. Surely it is manifest . . . that the citizen is so entangled in the organization of his own society that he can neither escape the evils nor relinquish the benefits which come to him from it.<sup>46</sup>

The later Spencer was properly refuted, on his own earlier grounds, by “S.R.” “S.R.” points out first that on the later Spencer’s own grounds, a man at least has the right to refuse to pay for advantages that he can relinquish. “S.R.” then quotes from the earlier Spencer’s application of his “law of equal freedom”:

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<sup>45</sup>Herbert Spencer, *Social Statics* (London: John Chapman, 1851), chap. 19, “The Right to Ignore the State,” pp. 206–16.

<sup>46</sup>Herbert Spencer, *An Autobiography* (New York: D. Appleton, 1904), vol. 1, pp. 417–18.

If every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man, then he is free to stop connection with the State—to relinquish its protection and to refuse paying toward its support. It is self-evident that in so behaving he in no way trenches upon the liberty of others; for his position is a passive one, and while passive he cannot become an aggressor. . . . He cannot be coerced into a political combination without a breach of the law of equal freedom; he can withdraw from it without committing any such breach; and he therefore has the right to withdraw.

“S.R.” then proceeds: “Is a man who refuses to pay for incidental advantages he has not solicited an aggressor? Is it a breach of the law of equal freedom to withdraw from a combination that, in working for itself and pursuing its own benefit, indirectly benefits one who is perfectly willing to forego the blessings of the uninvited beneficence?” “S.R.” then points out that Spencer is implicitly modifying his equal freedom formula to say that anyone can do whatever he wishes, provided not only that he does not infringe on anyone else’s freedom, but also provided “that no one confers upon him benefits which he cannot wholly surrender while remaining a producer and trader.”

“S.R.” then tellingly supplies the logical *reductio* of the free-rider argument:

Has an individual the right to withhold proper contributions from neighbors who, individually or collectively, benefit him by caring for their own interests? If my neighbors hire private watchmen, they benefit me indirectly and incidentally. If my neighbors build fine houses or cultivate gardens, they indirectly minister to my pleasure. Are they entitled to tax me for these benefits because I cannot “surrender” them?<sup>47</sup>

Thus the free-rider argument proves far too much. After all, civilization itself is a process of all of us “free-riding” on the achievements of others. We all free-ride, every day, on the achievements of Edison, Beethoven, or Vermeer. When capital investment increases, and technology improves, the real wages of workers and the standard of living of consumers increase, even though they have contributed

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<sup>47</sup>“S.R.,” “Spencer as His Own Critic,” *Liberty* 14 (June 1904): 2.

nothing to these advances. By simply continuing to work and consume, laborers and consumers receive the benefits of the inventions and investments of others without paying for them. So what must we infer from this? Are we all to wear sackcloth and ashes? If our neighbors are wiser, prettier, or happier, we all benefit in countless ways. So what must we do about it? Must we all be taxed to subsidize their beauty and wisdom?

And if people feel that not enough beauty, wisdom, inventions, police protection, and so on, will be provided by consumer payment and because of free riders, they are perfectly at liberty to subsidize provision of such goods on their own, individually or through societies or foundations. By doing so, the donor will demonstrate that, to him, the expected psychic benefit from his subsidy is worth more than the money he pays.

It will be objected that potential donors will not donate if they are rankled by the spectacle of free riders who stubbornly refuse to donate for the benefits they receive. And, further, that consumers on the market will not be willing to purchase these goods if they know that free riders abound. If we wished to moralize here, we might respond that these persons might be well advised to attend to their own affairs without wallowing in envy at benefits received by others. But, in any case, if the rankling at the existence of free riders is strong enough, these persons are always free to boycott the miscreants, either by not trading with them or by general ostracism.<sup>48</sup>

The consumers or donors can also, if they wish, get around the free-rider problem by making contracts, either singly or in organized fashion, that will pay for the “collective good,” but only *on condition* that everyone else, including the potential free riders, pay as well.

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<sup>48</sup>Attacking the late Spencer’s argument, in *Man vs. the State*, for taxation for defense based on the free rider, “S.R” points out that Spencer “overlooked the fact that there are several methods of securing cooperation for necessary ends, some manifestly nonaggressive and consonant with the principle of equal freedom. It is, of course, unfair for any man to enjoy the benefits of peace and stability while declining to share the risks, sacrifices, and burdens entailed by actual and probable attacks from within or without; but such an unsocial and mean-spirited individual can be brought to terms by the boycott, material and moral.” “S.R.,” “Spencer and Political Science,” *Liberty* 14 (February 1904): 2.

This form of contract would enable those willing to pay, in effect, to put the choice to the free riders: Either you join in paying or the service will not be provided.<sup>49</sup>

### *Transaction Costs*

It has been objected that the “transaction costs” of identifying the free riders or channeling donations, or organizing boycotts or of making conditional contracts, are “too high,” and that therefore those who want these services are justified in turning to the government to force the free riders to pay.

There are several grave fallacies in the transaction costs argument for taxation. In the first place, it ignores the transaction costs of the government process itself. The implication is that government is a costless Mr. Fixit, levitating angelically above the fray and busily correcting “market failures.” If private persons have difficulty in identifying free riders, will government be able to limit its taxation to free riders only? What of the external costs of the inevitable taxation beyond the free rider? And, as we have seen, since market and demonstrated preference through individual action is not available to government, there is *no way* that government can either identify the free riders or the “negative free riders,” or to discover *how much* benefit each person would derive from the subsidized supply and therefore how much each person should be taxed. There are also the inevitable grave inefficiencies in the political supply of goods and services and in the political process itself that need not be expounded here. At any rate, there is no reason to assume that the transaction costs of turning to government will be lower than those of private operation, and every reason to assume the opposite.

Second, another definitive rebuttal of the transaction-cost argument for government is the impossibility of comparing transaction costs, not simply of private and government action, but at any time and in any situation. For costs, like utilities, are subjective, and therefore nonmeasurable and noncomparable between persons. There is no such thing as social transaction costs or any social costs

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<sup>49</sup>I am indebted to Dr. David Gordon of the Center for Libertarian Studies for pointing this out to me.

whatever.<sup>50</sup> Any government action will impose enormous psychic cost on the anarchist; any private action will do likewise for the dedicated totalitarian. How are we to compare them? If an entity does not and cannot exist, then it is senseless to take as one's goal that it be minimized.

And third, even if transaction costs were measurable and comparable, we must ask: What is so terrible about transaction costs? On what basis are they considered the ultimate evil, so that their minimization must override all other considerations of choice, freedom, or justice?<sup>51</sup> After all, if minimizing these dread costs were truly the be-all and end-all, we could all pledge to obey one dictator, one Brezhnev or Idi Amin, in all things, and then everyone would have the assurance of knowing everyone else's relevant value-scales. Other problems would abound, but at least transaction costs would be forced down to a minimum.

### *Coercion as "Really" Voluntary*

A final fallback argument for the voluntariness of taxation and government asserts that every member of society wishes to pay for the collective goods but will do so only if *everyone* else pays. Therefore the seeming coercion of taxation is a fallacy, for everyone voluntarily pays in the serene knowledge that all beneficiaries are paying. In a kind of Hegelian leap, we are all voluntarily and cheerfully forcing ourselves to be free.<sup>52</sup>

<sup>50</sup>Even Professor Buchanan, one of the founders of public-choice theory, admits the subjectivity and hence the noncomparability of costs. James M. Buchanan, *Cost and Choice: An Inquiry in Economic Theory* (Chicago: Markham, 1969).

<sup>51</sup>If transaction costs are to be absolute and override all other considerations, then the transaction cost theorists are taking the very same position they deride in ethicists: that is, rendering their values absolute, with no trade-off for other values. If transaction-cost economists are to scorn ethicists for ignoring cost-benefit considerations, why are they to be allowed to ignore ethics?

<sup>52</sup>Professors Buchanan and Tullock and the public-choice theorists are the outstanding modern proponents of this theory, which was also enunciated by Professor Baumol. See William J. Baumol, *Welfare Economics and the Theory of the State* (Cambridge, Mass.: Harvard University Press, 1952), and *idem*, "Economic Theory and the Political Scientist," *World Politics* (January 1954): 275-77.

This argument adds a heavy dose of mysticism to the other collective goods and external benefits arguments. For how do we know that everyone is voluntarily paying knowing that everyone else is doing so? There is no evidence, there is no social compact whatever to that effect. Is *all* that they pay supposed to be voluntary, or just some? Are they perhaps in mourning that their payments are not higher? And what of the anarchist and the pacifist and the tax rebel? Is *their* bitter opposition to taxation only a cloak for their cheerful acceptance? On what basis are we supposed to accept this curious doctrine?

There is, in short, no warrant whatever for Baumol's contention that every individual prefers to be coerced into paying for a service rather than have none of it supplied at all. Moreover, this argument ignores the options as discussed above, of conditional contracts to finance the service voluntarily, or of voluntary boycotts of free riders.<sup>53</sup>

A popular argument holds that the fact of democracy establishes the voluntary nature of government. This idea need not detain us here long. As Herbert Spencer pointed out, democracy at best can only reduce the number of people being coerced; it does not eliminate coercion:

<sup>53</sup>See Rothbard, *Toward a Reconstruction of Utility and Welfare Economics*, pp. 33ff. On collective goods and external benefits, also see Rothbard, *Man, Economy, and State*, vol., 2, pp. 883–90.

Buchanan and public-choice theorists argue that the all-voluntarily-forcing-themselves process actually takes place at the basic “constitutional” level. But again there is no evidence for this whatever. If they have the American Constitution in mind, then they should realize that the Constitution was put across against the wishes of the majority of the public and that the Constitution makers were interested not in “general rules” for the benefit of all, but in pushing through measures—protective tariffs, opening up of export markets, repayment of public debt at far above market price, expanded bank credit for privileged groups, public works—for one set of people at the expense of another. Contrast James M. Buchanan and Gordon Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan Press, 1962), with among others, E. James Ferguson, *The Power of the Purse* (Chapel Hill: University of North Carolina, 1961), and Jackson Turner Main, *The Antifederalists* (Chapel Hill: University of North Carolina Press, 1961).

By no process can coercion be made equitable. . . . The rule of the many by the few we call tyranny: the rule of the few by the many is tyranny also. . . . "You shall do as we will, and not as you will," is in either case the declaration; and if the hundred make it to the ninety-nine, instead of the ninety-nine to the hundred, it is only a fraction less immoral. Or two such parties, whichever fulfills this declaration necessarily breaks the law of equal freedom: the only difference being that by the one it is broken in the persons of the ninety-nine, whilst by the other it is broken in the persons of a hundred. And the merit of the democratic form of government consists solely in this, that it trespasses against the smallest number.<sup>54</sup>

Spencer concludes that "the very existence of majorities and minorities is indicative of an immoral state." For the "enactment of public arrangements by vote," he points out, "implies that the desires of some cannot be satisfied without sacrificing the desires of others . . . implies therefore, organic immorality."<sup>55</sup>

Spencer goes on to point out that the doctrine that men may only be taxed by their own consent implies their right not to pay taxes, to "ignore the State." He then notes the reply of the statists that "this consent is not a specific, but a general one, and that the citizen is understood to have assented to everything his representative may do, when he voted for him." Spencer's rebuttal to this democratic mythos is definitive:

But suppose he did not vote for him; and on the contrary did all in his power to get elected some one holding opposite views—what then? The reply will probably be that, by taking part in such an election, he tacitly agreed to abide by the decision of the majority. And how if he did not vote at all? Why then he cannot justly complain of any tax, seeing that he made no protest against its imposition. So, curiously enough, it seems that he gave his consent in whatever way he acted—whether he said yes, whether he said no, or whether he remained neuter! A rather awkward doctrine this. Here stands an unfortunate citizen who is asked if he will pay money for a certain preferred advantage; and whether he employs the only means of expressing his refusal or does not employ it, we are told that he practically agrees; if only the number of others who

<sup>54</sup>Spencer, *Social Statics*, p. 210.

<sup>55</sup>Ibid., p. 211.

agree is greater than the number of those who dissent. And thus we are introduced to the novel principle that A's consent to a thing is not determined by what A says, but by what B may happen to say!<sup>56</sup>

### *The Unanimity Principle*

Sensing the problems of coercion by majority rule, social theorists from Calhoun (the “concurrent majority” theory) to Wicksell and Buchanan (the Unanimity Principle) have been trying to arrive at a polity free of this coercion. Although the search for a way out of coercion may be commendable, the seeming voluntariness of the Unanimity Principle suffers from two grave flaws. First, Wicksell and Buchanan apply the Unanimity Principle only to *changes* in the *status quo*, that is, to *new* acts of taxation and expenditure. But this simply ratifies existing property titles, and assumes that these existing property titles are just and must be maintained. In short, the ratification of changes from the zero point only by unanimous consent, virtually freezes that zero point permanently. But should it be? Suppose that, previous to the installation of the Unanimity Principle, a group of persons, either by their own violent conquest or through State action, had stolen and confiscated the property of another large group and called that property their own. The Unanimity Principle would then prohibit the victims from taking back their property, since such action would have to gain the consent of the robbers. In his classic article on the Unanimity Principle, Knut Wicksell first acknowledged this problem and then brusquely dismissed it. Thus Wicksell first concluded:

If there are within the existing property and income structure certain titles and privileges of doubtful legality or in open contradiction with modern concepts of law and equity, then society has both the right and the duty to revise the existing property structure. It would obviously be asking too much to expect such revision ever to be carried out if it were to be made dependent upon the agreement of the persons primarily involved.<sup>57</sup>

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<sup>56</sup>Ibid., pp. 211–12.

<sup>57</sup>Knut Wicksell, “A New Principle of Just Taxation,” in *Classics in the Theory of Public Finance*, Musgrave and Peacock, eds., p. 109.

But having admitted that, Wicksell then proceeded as if it had not been said, asserting that “no [such] measure should be carried out unless it have the prior unanimous or at any rate overwhelming support of the whole people.”<sup>58</sup>

Second, the Unanimity Principle turns out to be something less than unanimous. Pacifists, tax rebels, and anarchists are apparently inconvenient to the goal of achieving unanimity in taxation, so the proponents speak of “relative unanimity” (Buchanan and Tullock), “approximate unanimity” (Wicksell), or “virtual unanimity” (the later Spencer). But these are all oxymorons, comparable to the phrase “only a little pregnant.” Unanimity must mean consent by all and nothing less.<sup>59</sup> Anything less is necessarily coercive and not voluntary.<sup>60</sup>

### **J.B. SAY ON TAXATION**

In contrast to almost all other economists, J.B. Say was astonishingly clear-sighted about the true nature of the State and of taxation. In Say there was no vain, mystical quest for a truly voluntary State or for a benign quasi-business firm supplying services to the grateful public. Say saw clearly that government supplies services to itself and its favorites, that all government spending is therefore consumption spending by the politicians and the bureaucracy, and that that spending is extracted by coercion at the expense of the taxpaying public.

<sup>58</sup>Ibid.

<sup>59</sup>Thus, “S.R.”’s critique of the later Spencer’s argument for compulsory military service, compulsory justice, and compulsory taxation, to the effect that there is “virtual unanimity” behind these forms of State action, pointed out: “The word virtual is fatal. The question is evaded, not answered. Has the one man, or the insignificant group of men, that refuses to support the State, even in the simplest of its functions, the right to stand alone, to ignore it? Spencer never refuted his own early demonstration of this right.” “S.R.” “Spencer and Political Science,” p. 2.

<sup>60</sup>Here we might note the curious position of Laffer-Wanniski that the tax rate that maximized government revenue along the “Laffer curve” is, for some obscure reason, the point at which the electorate desires to be taxed. (Italics Wanniski’s.) Jude Wanniski, “Taxes, Revenues, and the ‘Laffer Curve’” in *The Economics of the Tax Revolt*, Arthur Laffer and Jan Seymour (New York: Harcourt Brace Jovanovich, 1979), p. 8.

As Say points out: “The government exacts from a taxpayer the payment of a given tax in the shape of money. To meet this demand, the taxpayer exchanges part of the products at his disposal for coin, which he pays to the tax-gatherers.” Eventually, the government spends the money on its own needs, and so “in the end . . . this value is consumed; and then the portion of wealth, which passes from the hands of the taxpayer into those of the tax-gatherer, is destroyed and annihilated.” Were it not for taxes, the taxpayer would have spent his money on his own consumption. As it is, “The state . . . enjoys the satisfaction resulting from the consumption.”<sup>61</sup>

Say goes on to attack the “prevalent notion, that the values, paid by the community for the public service, return to it again . . . , that what government and its agents receive, is refunded again by their expenditures.” Say is indignant:

This is a gross fallacy; but one that has been productive of infinite mischief, inasmuch as it has been the pretext for a great deal of shameless waste and dilapidation. The value paid to government by the tax-payer is given without equivalent or return: it is expended by the government in the purchase of personal service, of objects of consumption.<sup>62</sup>

At this point Say revealingly quotes with approval Robert Hamilton’s likening of government to a robber in refuting the argument that taxation is harmless because the money is recirculated into the economy by the State. Hamilton compares this impudence to the “forcible entry of a robber into a merchant’s house, who should take away his money, and tell him he did him no injury, for the money, or part of it, would be employed in purchasing the commodities he dealt in, upon which he would receive a profit.” Say then adds “that the encouragement afforded by the public expenditure is precisely analogous.”<sup>63</sup>

<sup>61</sup>Jean-Baptiste Say, *A Treatise on Political Economy*, 6th ed. (Philadelphia: Claxton, Remsen and Haffelfinger, 1880), pp. 412–13.

<sup>62</sup>Ibid., p. 413.

<sup>63</sup>Ibid., p. 413n. Say likens government to a robber at another point. He states that government’s claim to a right over individual property, which it makes through taxation, is pure usurpation. The government is no more the proper owner of its claimed property than a thief over the property he has robbed. Ibid., p. 414n.

Say bitterly goes on to denounce the “false and dangerous conclusion” of writers who claim that public consumption increases general wealth. “If such principles were to be found only in books,” Say went on, “and had never crept into practice, one might suffer them without care or regret to swell the monstrous heap of printed absurdity.” But unfortunately they have been put into “practice by the agents of public authority, who can enforce error and absurdity at point of the bayonet or mouth of the cannon.<sup>64</sup> Once again, Say sees the uniqueness of government as the naked exercise of force and coercion.

Taxation, then, is the coercive imposition of a burden on members of the public for the benefit of consumption by the ruling class, by those in command of the government. Say writes:

Taxation is the transfer of a portion of the national products from the hands of individuals to those of the government, for the purpose of meeting the public consumption of expenditure. . . . It is virtually a burthen imposed upon individuals, either in a separate or corporate character, by the ruling power . . . for the purpose of supplying the consumption it may think proper to make at their expense; in short, an impost, in the literal sense.<sup>65</sup>

Thus Say is not impressed with the notion, properly ridiculed by Schumpeter, that all of society somehow voluntarily pay their taxes for the general benefit; instead, taxes are a burden coercively imposed upon society by the “ruling power.” Neither is Say impressed if the taxes are voted by the legislature: For “what avails it . . . that taxation is imposed by consent of the people or their representatives, if there exists in the state a power, that by its acts can leave the people no alternative but consent?”

Taxation, Say clearly pointed out, cripples rather than stimulates production, for taxation robs people of resources that they would rather use in a different way:

Taxation deprives the producer of a product, which he would otherwise have the option of deriving a personal gratification from, if consumed . . . or of turning to profit, if he preferred to devote it to

<sup>64</sup>Ibid., pp. 414–15.

<sup>65</sup>Ibid., p. 446.

any useful employment. . . . [T]herefore, the subtraction of a product must needs diminish, instead of augmenting, productive power.<sup>66</sup>

Say continues with a devastating critique of the argument that taxation is useful in stimulating people's exertions and the development of industry. But first, industry is looted to satisfy the demands of the State, and hence productive capital is crippled:

Mere exertion cannot alone produce, there must be capital for it to work upon and capital is but an accumulation of the very products, that taxation takes from the subject: . . . in the second place, it is evident, that the values, which industry creates expressly to satisfy the demands of taxation, are no increase of wealth; for they are seized on and devoured by taxation.

As for the argument that taxes stimulate exertions:

To use the expedient of taxation as a stimulative to increased production, is to redouble the exertions of the community, for the sole purpose of multiplying its privations, rather than its enjoyments. For, if increased taxation be applied to the support of a complex, overgrown, and ostentatious internal administration, or of a superfluous and disproportionate military establishment, that may act as a drain of individual wealth, and of the flower of the national youth, and an aggressor upon the peace and happiness of domestic life, will not this be paying as dearly for a grievous public nuisance, as if it were a benefit of the first magnitude?<sup>67</sup>

Say is also properly critical of Ricardo for maintaining that the suppression of one branch of private industry by taxation will always be compensated by a diversion of capital to some other industry. Say rebuts that:

I answer, that whenever taxation diverts capital from one mode of employment to another, it annihilates the profits of all who are thrown out of employ by the change, and diminishes those of the rest of the community: for industry may be presumed to have chosen the most profitable channel. I will go further, and say, that a forcible diversion of the current of production annihilates many additional sources of profit to industry. Besides, it makes a vast

<sup>66</sup>Ibid., p. 447.

<sup>67</sup>Ibid., pp. 447, 447n–448n.

difference to the public prosperity, whether the individual or the state be the customer. . . . [In the latter case] wealth and production decline in consequence, and prosperity vanishes, leaving behind the pressure of unremitting taxation.<sup>68</sup>

Say concludes with a scornful attack on the very idea that taxation and government spending add to national wealth:

It is a glaring absurdity to pretend that taxation contributes to national wealth, by engrossing part of the national produce, and enriches the nation by consuming part of its wealth. Indeed, it would be trifling with my reader's time, to notice such a fallacy, did not most governments act upon this principle, and had not well-intentioned and scientific writers endeavored to support and establish it.<sup>69</sup>

Say's basic recommendation on the tax question was, in consequence, simple, trenchant, and clear-cut: "The best scheme of finance is, to spend as little as possible; and the best tax is always the lightest."<sup>70</sup> In short, that government is best that spends and taxes least. But then, paraphrasing Thoreau's and Benjamin R. Tucker's logical extension of the similar conclusion of Jefferson: May we not say that that government is best that spends and taxes not at all?<sup>71</sup>

<sup>68</sup>Ibid., p. 452n. In a charming aside, Say chides Ricardo for erring because of his penchant for introducing "the unbending maxims of geometrical demonstration." For, "in the science of political economy, there is no method less worthy of reliance."

<sup>69</sup>Ibid., p. 447.

<sup>70</sup>Ibid., p. 449. Here we may note with amusement Frédéric Bastiat's reaction to these passages of Say. In the light of Bastiat's reputation as a "laissez-faire extremist" in contrast to Say's "moderation," we might note that Bastiat was shocked at the extremism of Say's views: Doesn't the State supply some services to the public? Frédéric Bastiat, *Economic Harmonies* (Princeton, N.J.: D. Van Nostrand, 1964), p. 567.

<sup>71</sup>In a famous passage, Thoreau wrote: "I heartily accept the motto—'That government is best which governs least,' and I should like to see it acted up to more rapidly and systematically. Carried out, it amounts to this, which also I believe—'that government is best which governs not at all.' Or, as Tucker concluded succinctly: "That which governs least is no government at all." Henry D. Thoreau, "Civil Disobedience" [1849], in *Walden and Other Writings* (New York: Modern Library, 1937), p. 635; Benjamin R. Tucker, *Instead of a Book* (New York: B.R. Tucker, 1893), p. 14.