The Neutral Tax

Any quest for a nonredistributive neutral tax, such as free-market economists indulge in, must succeed in providing criteria for two basic questions about taxes: (a) *how much* taxes should be paid? and (b) *who* should pay them? The free market answers questions of "who" and "how much" very easily for its goods and services. But free-market economists have been singularly unsuccessful in providing either of these criteria for taxation.[72] Thus the answer of *laissez-faire* economists to the former question—that taxation should be limited strictly to protection or defense—founders, not only on the coercive nature of the payment, but also on the nonhomogeneity of the defense service. Defense, as we have seen above, is not a homogeneous lump but a good available in different quantities and qualities, in marginal units. Since the free market has been abandoned in this area, there is no way to arrive at any rational criteria for the optimal total amount or distribution of government defense, or of any other good or service.

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[72]Thus Ludwig von Mises, by far the most thoughtful and systematic of free-market economists, devotes only a few unsatisfactory paragraphs to the subject of a neutral tax, or indeed to taxation in general. While conceding the impossibility of a neutral tax in the real world, he maintains without demonstration that it *would* be possible in a world of general equilibrium. And, despite its conceded impossibility, he seems to advocate pursuing the neutral tax as an ideal. (He also does not explain why everyone's income would be equal in general equilibrium.) Apart from this, Mises maintains that taxes, despite "directly curtail[ing] the taxpayer's satisfaction," are "the price he pays for the services which government renders to . . . each of its members." He warns that taxes should remain "low," but the only criterion offered for this lowness is that they "do not exceed the amount required for securing the smooth operation of the government apparatus"; in that case, "they are necessary costs and repay themselves." We may here reiterate all the questions we've discussed above, emphasizing such problems as: How much service? To which members? How about pacifists? Who pays the necessary costs and who gets repaid and then some? And *what* exactly is the "smooth operation of the government apparatus," and should that be the overriding desideratum? Mises, *Human Action*, pp. 730–31, 733–34, 738.

Taxpayers and Tax-Consumers

It might be claimed that neutral taxation could be achieved in one way, if in no other: if the precise amounts that each individual paid in taxes were returned to him in government expenditure. Thus if A paid $1,000 in taxes in a certain year, B paid $500, and C $300, and so on, then A would receive $1,000, B $500, and so on. It might be thought that such a taxation system would be at best absurd; for why construct an elaborate machinery that would simply take and then give back the same amounts to each person? Why then have taxation at all? But there is a grave flaw even in this attempt at a neutral tax: neglect of the bureaucratic handling charge.

For even if such a precisely equal tax-and-payment mechanism were constructed, there would have to be salaries paid to the bureaucracy administering the system (and to the politicians ruling the administrators). But these bureaucrats, then, would, in contrast to the rest of society, be net tax-receivers, and hence by at least the amount and dispensation of their salaries, the fiscal system could not be neutral to the market economy. For even if A, B, C, and so on, paid and received the equivalent amounts, bureaucrats B_1, B_2, B_3, and so on, would be net tax-recipients, and in essence, would be paying no taxes at all. Their net incomes functioning in the bureaucracy will necessarily have to be subtracted from the net incomes of other members of society. And therefore the very existence and operation of government, as John C. Calhoun brilliantly pointed out, establishes *at the very least* a class struggle between the net tax-recipients and the net taxpayers. Calhoun's analysis is worth quoting at length:

> So deeply seated, indeed, is this tendency to conflict between the different interests or portions of the community that it would result from the action of the government itself, even though it were possible to find a community where the people were all of the same pursuits, placed in the same condition of life, and in every respect so situated as to be without inequality of condition or diversity of interests. The advantages of possessing the control of the powers of the government, and thereby of its honors and emoluments, are, of themselves, exclusive of all other considerations, ample to divide even such a community into two great hostile parties. . . . And what makes this evil remediless through the right of suffrage of itself . . . is the fact that, as far as the honors and emoluments of the government and its fiscal action are concerned, it is impossible to equalize it. The reason is obvious. Its honors and

emoluments, however great, can fall to the lot of but a few, compared to the entire number of the community and the multitude who will seek to participate in them. But without this there is a reason which renders it impossible to equalize the action of the government so far as its fiscal operation extends. . . .

Few, comparatively, as they are, the agents and employees of the government constitute that portion of the community who are the exclusive recipients of the proceeds of the taxes. Whatever amount is taken from the community in the form of taxes, if not lost, goes to them in the shape of expenditures or disbursements. The two—disbursement and taxation—constitute the fiscal action of the government. They are correlatives. What the one take from the community under the name of taxes is transferred to the portion of the community who are the recipients under that of disbursements. But as the recipients constitute only a portion of the community, it follows, taking the two parts of the fiscal process together, that its action must be unequal between the payers of the taxes and the recipients of their proceeds. Nor can it be otherwise; unless what is collected from each individual in the shape of taxes shall be returned to him in that of disbursements, which would make the process nugatory and absurd. Taxation may, indeed, be made equal, regarded separately from disbursement. Even this is no easy task; but the two united cannot possibly be made equal.

Such being the case, it must necessarily follow that some one portion of the community must pay in taxes more than it receives back in disbursements, while another receives in disbursements more than it pays in taxes. It is, then, manifest, taking the whole process together, that taxes must be, in effect, bounties to that portion of the community which receives more in disbursements than it pays in taxes, while to the other which pays in taxes more than it receives in disbursements they are taxes in reality—burdens instead of bounties. This consequence is unavoidable. It results from the nature of the process, by the taxes ever so equally laid. . . .

Nor would it be less a bounty to the portion of the community which received back in disbursements more than it paid in taxes because received as salaries for official services, or payments to persons employed in executing the works required by the government, or furnishing it with its various supplies, or any other description of public employment—instead of being bestowed gratuitously. It is the disbursements which give additional and, usually, very profitable and honorable employments to the portion of the community where they are made . . . and hence, to the extent that the disbursements exceed the taxes, it may be fairly regarded as a bounty.

> The very reverse is the case in reference to the portion which pays in taxes more than it receives in disbursements. With them profitable employments are diminished to the same extent, and population and wealth correspondingly decreased.
>
> The necessary result, then, of the unequal fiscal action of the government is to divide the community into two great classes: one consisting of those who, in reality, pay the taxes and, of course, bear exclusively the burden of supporting the government; and the other, of those who are the recipients of their proceeds through disbursements, and who are, in fact, supported by the government; or in fewer words, to divide it into taxpayers and tax-consumers.
>
> But the effect of this is to place them in antagonistic relations in reference to the fiscal action of the government and the entire course of policy therewith connected. For the greater the taxes and disbursements, the greater the gain of the one and the loss of the other, and vice versa; and consequently, the more the policy of the government is calculated to increase taxes and disbursements, the more it will be favored by the one and opposed by the other.
>
> The effect, then, of every increase is to enrich and strengthen the one, and impoverish and weaken the other.[73]

Thus if a bureaucrat receives an income of $30,000 per year, and pays $10,000 to the government in taxes, he is in reality not paying taxes at all. His tax payment is a bookkeeping fiction; in reality, he is simply a net tax-consumer to the tune of $20,000.

Calhoun has thus shown that the very existence of taxation creates at least two conflicting classes: the ruling and the ruled, and that the ruling class are the net tax-consumers and the ruled the net taxpayers. The ruling classes comprise the full-time politicians and bureaucrats receiving government salaries, as well as the private sellers of goods and services to the governments or recipients of outright government subsidy. There is hence no way for government or for taxation to be neutral. Moreover, the greater the amount and degree of taxation/expenditures by government, the more important will be this unneutrality, this diversion of output and income from producers on the market to the State and the receivers of its largess. The greater the extent of government operation, therefore, the greater the class conflict in the society.

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[73]John C. Calhoun, *A Disquisition on Government* (New York: Liberal arts Press, 1953), pp. 14–18.

Proportional Taxation

Setting aside for a moment the problem of inherent nonneutrality stemming from the existence of taxation and expenditures, let us examine further the specific types or forms of taxes. Is there any form that might be called neutral to the market? Many economists have assumed that proportional taxation for each taxpayer (whether on incomes, property, or intangible "sacrifice") will leave the distribution of income or wealth the same as before, and therefore be neutral to the market. Thus to Edwin Cannan proportional property taxation serves as a "sufficiently accurate standard" of neutrality, so that "the distribution of wealth between individuals" is the same as "it would be in the absence of State action."[74] To Blum and Kalven, proportional sacrifice, presuming this intangible could be measured, has "the virtue . . . that it remains neutral as to the relative distribution of satisfactions among taxpayers. Under it they are all equally 'worse off' after taxes."[75]

At first blush, proportionality appears to leave market distribution the same. If, for example, a tax of 10 percent is levied on all incomes, is not the distribution of incomes left the same (setting aside the above insoluble problem of net tax-consumers)? It is true that if A earns $30,000 a year, B earns $20,000, and C earns $10,000, and each pays 10 percent, the relative proportions of their income after taxes will remain the same as before ($27,000, $18,000, and $9,000). But this question misconceives the very idea of the neutral tax. The point of a tax neutral to the market is not to leave the income distribution the same as if a tax had not been imposed. The point of a neutral tax is to affect the income "distribution" and all other aspects of the economy in the same way as if the tax were a free-market price. Only if a tax has the effect of a surrogate free-market price, only if, in a profound sense, it is *part of the market*, could it be neutral to that market. And it should be evident that no free-market price leaves income distribution the same. If every market price

[74]Edwin Cannan, "Minutes of Royal Commission on Local Taxation," 1899," in *Readings in the Economics of Taxation*, Richard Musgrave and Carl Shoup, eds. (Homewood, Ill.: Irwin, 1959), pp. 182–83.

[75]Walter Blum and Harry Kalven, Jr., *The Uneasy Case for Progressive Taxation* (Chicago: University of Chicago Press, 1953), p. 44.

were proportional to the income of the purchaser, if David Rockefeller had to pay $1,000,000 for a box of Wheaties, then there would be no point in having a higher income, and we would have an extraordinarily complex and unworkable form of compulsory equality of incomes.

The market does not form prices proportional to incomes; the market is characterized by uniform pricing, by a strong tendency toward the same price for the same good or service regardless of the income or personality of the buyer.[76]

Taxation and Benefits

If the market charges all consumers the same price for a particular service, it would seem that some form of equal (rather than equiproportional) taxation might be neutral to the market. One time-honored criterion attempting to arrive at such neutrality is the "benefit" principle: that each should pay taxes in accordance with the benefits he receives from the State. Those receiving the same benefits would pay the same amount of tax. There are many grave problems with this approach, however. First, in contrast to the marketplace, there is no way whatever for an external observer to gauge anyone's benefits as derived from government. Since "benefits" are subjective, we cannot measure anyone's benefit on the market either, but we *can* conclude, from a person's voluntary purchase, that his (expected) benefit was greater than the value to him of the money given up in exchange. If I buy a newspaper for 25 cents, we can conclude that my expected benefit is greater than a quarter. But since taxes are compulsory and not voluntary, we can conclude nothing about the alleged benefits that are paid for with them. Suppose, in analogy, that I am forced at gunpoint to contribute 25 cents for a newspaper and that that newspaper is then forcibly hurled at my door. We would be able to conclude nothing about my alleged benefit from the newspaper. Not only might I be willing to pay no more than 5 cents for the paper, or even nothing on some days, I might positively detest the newspaper and would demand payment to accept it. From the fact of coercion there is no way of telling. Except that we can conclude that many people are not getting 25 cents'

[76]A similar critique could be leveled against any form of proportional tax, for example, on sales or property.

worth from the paper or indeed are positively suffering from this coerced "exchange." Otherwise, why the need to exercise coercion? Which is all that we can conclude about the "benefits" of taxation.[77]

To Adam Smith, the benefit principle dictated proportional income taxation: "The subjects of every state ought to contribute toward the support of government, as nearly as possible . . . in proportion to the revenue which they respectively enjoy under protection of the state."[78]

Other writers have even used the benefit principle to justify progressive taxation. Yet there is no warrant whatever for assuming equi-, or even more than, proportional benefit from government. In one model the alleged benefit from government is to be simply deduced from one's income, and it is claimed that this indicates a proportionately greater "benefit from society." But there are many flaws with this approach. For first, since everyone benefits from participating in society, the fact that A earns more than B must be attributed to individual differences in ability or productivity rather than to the benefits of society. And second, "society"—the pattern of voluntary exchanges of goods and services—is most emphatically not identical to the State, the coercive extractor of taxation.

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[77]In contrast to benefit theory, which naively assumes that people "purchase" government services in much the same way as they purchase goods and services on the market, at least sacrifice theory assumes in the words of Blum and Kalven, "that the taxes are a necessary evil falling up on a distribution of money, and therefore upon a distribution of satisfactions, which is otherwise acceptable." *Uneasy Case for Progressive Taxation*, p. 44. The basic problem with sacrifice theory is that it doesn't explain why people must bear the burdens or sacrifices of taxation, why that is, we must turn from talk of benefits and free choice on the market to talk to burden and sacrifice in the sphere of government.

[78]Adam Smith, *The Wealth of Nations* (New York: Modern Library, 1937), p. 777. Smith added immediately that "the expense of government to the individuals of a great nation, is like the expense of management to the joint tenants of a great estate, who are all obliged to contribute to their respective interest in the estate." Presumably, however, these tenants also get benefits from the estate greater than their pro-rata expenses, and if they do not, or even if they do, they can sell their share and leave—an option not available to the taxpayer.

If, indeed, we are to tax people in accordance with their benefit from government, we would have to tax all the net tax-consumers to the amount of their subsidies. We would have to tax 100 percent of the salaries of bureaucrats, of the incomes of welfare recipients and of defense contractors, and so on. We would then have our ideal model of the neutral tax where all recipients of government funds would systematically repay them to the taxpayers—an absurd if rather charming state of affairs. If we leave subsidies to concentrate only on supposedly common services such as police protection, then we would have to conclude that the poor benefit far more from police protection than the wealthy, since the wealthy could far better afford to pay for their own protection. We would therefore have to conclude, not that the rich benefit as much as or more than the poor, but far less. We would have to conclude that the poor and the infirm, far more in need of protection than the rich, should be taxed far more heavily than the rich and the able-bodied.[79]

Moreover, the market is misconstrued by the benefit principle. For on the market people do not pay in accordance with benefits received. The chess addict and the indifferent players pay the same price for the same chess set, and the opera enthusiast and the novice pay the same price for the same ticket. On the market, people tend to pay the same price for the same good, regardless of benefit. The poor and the weak might be the most eager for protection, but, in contrast to the benefit principle, they would not pay more for the same degree of protection on the market. And finally, everyone on the market enjoys a net benefit from exchange. If the entire benefit were taxed away (assuming this subjective concept could be measured), then this

[79]Mill put the case very well: "If we wanted to estimate the degrees of benefit from the protection of government we should have to consider who would suffer most if that protection were withdrawn: to which question if any answer could be made, it must be, that those would suffer most who were weakest in mind or body, either by nature or by position. Indeed, such persons would almost infallibly be slaves. If there were any justice, therefore, in the theory of justice now under consideration, those who are least capable of helping or defending themselves, being those to whom the protection of government is the most indispensable, ought to pay the greatest share of its price." John Stuart Mill, *Principles of Political Economy* (New York: D. Appleton, 1901), vol. 2, pp. 398.

practice would totally violate market principles, where net benefits from exchange are always maintained.

The Equal Tax

If the market means having everyone pay the same price for the same service, perhaps then each person should pay the same tax, equal in absolute amount? The equal tax, or "poll tax," is surely a far closer approximation to neutral taxation than any of the more common forms of taxation. It would indeed preserve the market principle of same price for same service. It would also be particularly appropriate for a democratic polity, where one person, one vote prevails, or for a regime that attempts to adhere to the principle of "equality before the law."[80]

But even the equal tax cannot be said to be neutral to the market. In the first place, it is impossible for observers outside the market, such as government, to gauge what service is "equal" to another service. Equality of service is not technological identity but similarity in the minds of the consumers. Only the free market, then, can determine different qualities or degrees of a service. Second, and even more important, there is no indication that for a particular taxpayer, the government is supplying a "service" at all. Since the tax is compulsory, it may well be that the "service" has zero or even negative value for individual taxpayers. Thus, a pacifist, philosophically opposed to any use of violence, would not consider a tax levied for his and others' police protection to be a positive service; instead, he finds that he is being compelled, against his will, to pay for the provision of a "service" that he detests. In short, equal pricing on the market reflects demands by consumers who are voluntarily paying the price, who, in short, believe that they are gaining more from the good or service than they are giving up in exchange. But taxation is

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[80]In recent years, the poll tax was used to designate a voting requirement, in effect a tax on voting, in the southern states. But originally, the poll tax was simply an equal tax per head, and the payment for voting was simply one method of enforcing the tax. On poll taxes, see Merlin H. Hunter and Harry K. Allen, *Principles of Public Finance* (New York: Harper and Bros., 1940), pp. 265–70. Many early poll taxes were graduated rather than uniform. C.F. Bastable, *Public Finance* (London: Macmillan, 1895), pp. 433–34.

imposed on all people, regardless of whether they would be willing to pay such a price (the equal tax) voluntarily, or indeed whether they would voluntarily purchase any of this service at all.

The poll tax works particular hardship on those who would not ordinarily be participating in the market economy. Hence it (as well as the income tax) is payable in money and has been used as a fearsome whip to force natives in undeveloped countries out of subsistence or barter production and into working for money wages. Working for capitalists becomes the only way these natives can pay the tax. Thus Sir Percy Girouard, the British governor of Kenya, freely admitted, in the early twentieth century, that taxation was levied on the native to force him to go to work for British employers. The hut tax "is the only method," opined Sir Percy, "of compelling the native to leave his reserve for the purpose of seeking work. Only in this way can the cost of living be increased for the native."[81] In the Congo Free State, the problem in that Belgian colony, as Parker Moon put it, was: "Would the natives willingly go out into the jungle to collect rubber and tusks for the State?" For, "little appreciating the dignity of labor, the Congo negroes evinced a marked distaste for the task which their humane sovereign expected them to perform. Accordingly, another civilized innovation was introduced—taxes."[82] Moon illuminates the relationship between taxation and forced labor in colonial countries:

> In tropical Africa . . . the problem is how to make the natives work at all, for Europeans. Actual slavery is everywhere condemned, and vanishing. . . . Compulsory labor, once the fashion in Central

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[81]Cited in Parker T. Moon, *Imperialism and World Politics* (New York: Macmillan, 1930), p. 132. In South West Africa, the British accomplished the same purpose with a dog tax, levied per native dog.

> Many of the natives, of course, were too poor to pay any such tax, and consequently in four months over one hundreds members of the Bondelzwarts tribe along were condemned, for non-payment of the tax, to pay a fine of two pounds or spend two weeks in jail. To obtain the money for tax and fines, the natives would have to work for white ranchers and mine-owners. (Ibid., p. 504)

[82]Ibid., p. 86.

> Africa, is falling more and more under censure, though it is still utilized by governments when they need natives for railroad or road construction, or other public works. . . .
>
> Taxation is a favorite method of stimulating native industry. In many African colonies hut and poll taxes are imposed, ranging from fifty cents to several dollars per capita. The amount seems small enough, by our standards, but to the negro without money it is a large sum. He can earn it by working on a plantation or in a mine, for white employers, at wages that vary from five cents a day, or less, in Congo, Northern Rhodesia, and other regions, to six or seven cents in Kenya, perhaps twenty cents in the interior of Nigeria, and fifty cents or more in South Africa. At such wages it takes a native months to save enough to pay the tax for his family.[83]

Conclusion

Free-market economists have successfully extended their critical analyses of government to all areas of State operation and intervention—all except one. Taxation, the heart and soul of government, has escaped unscathed. Free-market economists have either avoided the topic of taxation altogether or have provided concepts that, while claiming to help limit government, have in reality offered apologies for the extension of State power. The view that income taxes are "better" than excise taxes; the call for proportional or degressive income taxation; the Friedman negative income tax; the Buchanan-Tullock Unanimity Principle; and the collective-goods, external-benefits, and transaction costs arguments for government and taxation, have all served to place the *imprimatur* of economics on the status quo or on extensions of government rather than to limit or roll back State power. All this has followed the course traced by Bertrand de Jouvenel three decades ago: From the idea of divine right down to modern times concepts originally meant to limit State power have been turned by the State and its advocates into rationales for its further extension.[84]

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[83]Ibid., p. 563.

[84]Bertrand de Jouvenel, *On Power: The Nature History of Its Growth* (New York: Viking Press, 1949).

Much the same thing has happened to the noble concept of neutral taxation. The idea that taxation, and therefore government's fiscal operation, should be neutral to the market—should not disturb the operations of the market nor divert it from its free course—is a noble but impossible one. As we have seen here, taxation can never be neutral to the market, and the impossibility of this dream is rooted in the very nature of taxation and government. Neutral taxation is merely a chimera. It is perhaps because of this impossibility that this concept, in the hands of the modern public-choice theorists and others, has so quickly become yet another device for ratifying the status quo of State power.

We are forced, then, to the realization of crucial points from which free-market economists seem to have been fleeing as from the very plague. That neutral taxation is an oxymoron; that the free market and taxation are inherently incompatible; and therefore either the goal of neutrality must be forsaken, or else we must abandon the institution of taxation itself.

25

The Myth of Tax "Reform"

Everyone will agree that the American tax system is a mess. Taxes are far too high, and the patchwork system is so complicated that even IRS officials don't understand it. Hence the evident need for some sort of dramatic, even drastic, reform. As often happens, a group of dedicated and determined reformers has arisen to satisfy that need. But before we embrace this new gospel, we should heed the old maxim about jumping from the frying pan into the fire, and also remember the warning of the great H.L. Mencken, who defined "reform" as "Mainly a conspiracy of prehensile charlatans to mulct the American taxpayer." And we should also bear in mind that all acts of government, however worthy they may seem, have a way of winding up solving no problems and only making matters worse.

Working within current tax realities, the reformers' plans are varied and change nearly daily, as they meet conflicting political pressures. But whether they be Kemp-Kasten, Bradley-Gephardt, the Treasury plan of fall, 1984 (Regan, or Reagan I), or the final Reagan plan of spring, 1985 (Reagan II), there is one common and seemingly simple goal: that every person or group should pay the same proportional tax on their net income, and that all deductions, exemptions, and shelters be abolished in the name of this uniform proportional tax (a "flat tax with no exemptions").

The flat tax reformers have much in common with militant ideologues that we have become all too familiar with in the twentieth century. In the first place, they are egalitarians in this case, assuming

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it to be sinful or at least grossly "unfair" for any person or group to escape the scythe of the great uniform tax. Second, and along with this egalitarianism, they assume in brusque and lordly fashion that they alone represent and embody the "general interest," and that all objections to a uniform flat tax may be quickly dismissed as the self-interested croakings of the "special interests." It doesn't seem to matter if the "special interests" encompass most of the American populace; they must be unceremoniously swept aside to achieve the flat tax paradise. The fact that most of the impetus for this and other reforms comes from academic economists puts the icing on the flat tax cake. Academic idealists have always been accustomed to sweeping aside everyone else's interests and concerns as petty and "special," while they speak automatically for the larger interests of mankind. At best, the reformers cavalierly overlook the enormous amount of harm and pain they will inflict in the course of their grandiose reform.

One example: the flat tax would impose an enormous amount of harm and damage on every American homeowner. In their wisdom, the flat taxers have decided that deduction of interest payments on your mortgage is a "subsidy" granted by the tax system, and that your true net income would permit no such deduction. They have also concluded that the unwitting homeowner also enjoys another "subsidy" from the government: failure to tax his "imputed rent"; that is, the amount that he would have had to pay in rent if he had been renting the house instead of owning it. One of the many problems with the latter proposal is that the poor homeowner is never able to pay his "imputed" taxes; no, his taxes would have to be paid in cold cash, even though his income is "psychic" and not earned in money. But we press on. A third body blow to the homeowner would be the flat taxer's insistence on eliminating federal tax deductions for state and local taxes, most of which are property taxes on one's home. Thus, we have a three-fold tax increase inflicted on the homeowner, and the effect of this one-two-three punch would be a permanent lowering of the market value of one's home, which consists of the present value of expected future returns from the house.

These are but a few of the many grave consequences and damages that would flow from the reformers' measures. But the reformers literally do not care; no pains (almost invariably suffered by others) must be permitted to block or delay the speedy achievement of their Utopia. Any alterations are only grudging concessions to the fierce resistance of the "special interests" to the advent of the flat taxers' New Jerusalem. Thus, the Regan plan of fall, 1984 (Reagan I), proposed to increase drastically the capital gains tax, toward the ideal of raising it to the precise level of the income tax, and also suggested a sharp lowering of oil depletion allowances. Great resistance was offered to the plan by risky venture capitalists, who would be particularly crushed by a high capital gains tax, and by the similarly damaged oil interests, always considered sinister in the popular imagination. As a result, the reformers were forced to abandon these two aspects of their Grand Plan in Reagan II. But in the long run, these forced retreats are not important; their goal—a uniform across-the-board flat tax—always remains the same.

But why is this plan so grand? So vitally important that our pain and hardships should be treated as nothing? Here the reformers offer little argument. Basically, their reasons boil down to two: their tax system would be simple (you could calculate your tax on a postcard), and above all, it would be fair.

The Argument for Simplicity

Making out your taxes, the reformers claim, would be simplicity itself. No more back-breaking work trying to figure out what's going on, no more hiring tax lawyers or accountants. But the sweet simplicity of the argument can be disposed of very quickly. In the first place, anyone who wants simplicity can have it now, by using the short E-Z form, and two-thirds of Americans do so at the present time. So then the question to ask is: why do one-third of us choose complexity by spending many painful hours over the complex form, and why do we hire expensive lawyers and accountants to aid us? Surely, not because we love complexity and expense for their own sakes, but because we believe that there are things in life worse than complexity, and one of them is paying more taxes! We are willing to suffer some complexity in order to lower some of our monstrous tax burden. And by eliminating our deductions, exemptions, shelters, and so on, the reformers are imposing compulsory simplicity against our wishes. They are truly what the great nineteenth century Swiss historian Jacob Burckhardt said of the statist intellectuals of his day, "terrible simplifiers."

But the joke is on us, for the reformers' system would really in no way be simple. We would still have to go through a complex and murky maze. For the key to the flat taxers is that the uniform proportionate tax is to be levied on all net income. But what is net income? The answers are far from simple, and good arguments can be found on either side. The interesting and crucial fact is that, on each of these arguments, the flat taxers invariably come down against the harried taxpayer, and in favor of bringing ever more of our income and assets into the greedy maw of the taxing Leviathan State.

Thus, are "capital gains" income? The reformers say yes, and call for taxing it to the same extent as ordinary income. Western Europe has not gone down the economic drain partly because its capital gains taxes have always been far lower than its income taxes, but this fact does not and cannot count in the harsh calculus of our reformers. Should capital gains be taxed as they accrue on our books or only as they are realized in cash? Once again, the reformers opt for accrual, grabbing our assets at an earlier date, and heedless of our problem of paying taxes in money while our "gains" have only accrued in our psyche or on paper. Are the losses in our tax shelters phony, or should they be treated as real losses to write off our income? The reformers insist that they are phony, and that therefore they must be disregarded when our taxes are estimated. But who is to say so? Who is to say that if I buy a horse farm in Virginia, and suffer losses, that these are losses I welcome in order to reduce my taxes? Who is equipped to look into my heart and mind and find out if these losses are "genuine" or not? And since when has the IRS acquired occult powers, along with the rest of its totalitarian armamentarium?

And what about the cherished American institution of the three-martini lunch? Reformers from Carter to Reagan have tried to crush that lunch, and to claim that these are not genuine or worthy business expenses. Net income is arrived at by deducting costs from gross income. But is the three-martini lunch a "genuine" cost of business, or is it a sneaky way of earning income that is not subject to tax? Who knows? Who knows how much genuine business, if any, is conducted at such lunches? Once again, the reformers know! And they know that such deductions can be swept away.

And there is the problem of the corporation. Corporations are entities. Should their income be taxed at the same rate as personal income? Economists have come to recognize that there is no living thing called a corporation. A corporate income tax is a double tax upon stockholders, first as a "corporation," and next upon their personal income. But while economists have been increasingly calling for abolition of the corporate tax, the reformers have in their wisdom decided that since all entities' income must be taxed uniformly, the corporate income tax must be included and even raised if necessary to be taxed at the same rate.

None of these arguments is simple, but it's instructive that in each and every case, the reformers have come down fiercely on the side of including all these incomes or assets in the taxation category. Their bias in favor of tax, tax, and more tax should be clear by now.

The Argument for Fairness

The major argument of the flat taxers is that it is "fairness" that demands a swift forced march toward their ideal. "Fairness" is worth almost any cost. But it is strange that this ethical argument comes from a profession (academic economists) who have made a career of loudly proclaiming that all of their doctrines are "value-free science" that have nothing to do with ethics. So when did they become expert ethicists? Indeed, the fairness argument is generally and blithely assumed to be true, after which the reformers can gleefully denounce every resister to higher or broader taxes as embodiments of sinister "special" interests.

One argument holds that fairness demands that everyone pay his or her equal share of the "services" of government. Let us set aside for a moment the surely important point that these "services" are often dubious, are inordinately expensive, and sometimes mean that the taxpayer is forced to pay for his own surveillance and oppression. Since when does "fairness" demand that everyone pay the same proportion of his income for a good or service? Mixed in with the argument for fairness is the view that government should do nothing to penalize one industry or occupation, or subsidize another. This neutral-to-the-market argument puts the flat taxers in the guise of militant adherents of free enterprise This sounds admirable but why does it imply that everyone should pay the same proportion of his income? When David Rockefeller and I buy a loaf of Wonder Bread at the supermarket each of us pays the same price; no one is there to inspect our annual incomes and levy a proportionate fine. No one forces Rockefeller to pay $1,000 for a loaf of Wonder Bread, just because his income is a thousand times that of the next man. The free market tends toward uniform and equal pricing for each product; one price for everyone whatever that person's race, creed, class, color, or income. Why should it suddenly be different for taxes? In short, a quiet but highly important change has here been made in the concept of "equal," from equal and uniform price for all on the free market, to equal proportion to income in the hands of the flat taxers.

"Subsidy" True and False

At the heart of the fairness and neutral-to-the-market assumptions of the flat taxers is their express desire to eliminate subsidies, which are assumed to be both evil and non-neutral to the free market. The problem here is an equivocation on the term "subsidy." It's certainly true that our tax and budget system is riddled with subsidies, properly defined as taxing one group of people to line the pockets of another, or robbing Peter to pay Paul. If you or I are taxed to subsidize tobacco growers, or highway builders, or contractors, or welfare recipients, then these are indeed subsidies, cases where productive people are being robbed by the government to support groups who function, in effect, as parasites upon the producers. These are subsidies that should be eliminated forthwith. But what about, say, deductions for payment of interest on mortgages, tax credits for investment, or deductions for payment of state and local taxes? In what sense are they "subsidies"? Instead, what is really happening here is that some people—homeowners, investors, or state and local taxpayers—are graciously allowed by the government to keep more of their own money than they would have otherwise. I submit that being allowed to keep more of your hard-earned money is not a subsidy in any true sense; it simply means that you are being fleeced less intensely than you would have been. If a robber assaults you on the highway, and is about to run off with all of your funds, and you persuade him to let you keep some bus fare, is he "subsidizing" you? Surely not. Being allowed to keep your own money can scarcely be called a subsidy.

We are now able to see through two very different senses of the concept of "special interest." It is all too true that the tobacco planter or the highway contractor who eagerly demands government funds are special interests aggressively dedicated to fleecing the taxpayer. But the investor, or the homeowner, or the venture capitalist, or whatever, who lobbies to be able to keep more of his own money is a "special interest" in a very different sense. They are resisters properly dedicated to defending their own rights and assets against government assault. "Special" they might be, but they are, whether they know it or not, engaged in the noble effort of defending the rights and the freedoms of all of us against assault and depredation.

By focusing on defenders of their property and rights as alleged subsidy-seekers, the flat taxers are engaging in a strategy of "divide and conquer." The reformers have taken a growing movement of rebellion, resentment, and call for lower taxes and split the taxpayer forces by encouraging one set of us to seek out and persecute the other set. The flat taxers have managed to shift the focus of discussion from "lower taxes for all" to the proposition: "If you want your taxes to be lower, seek out and confiscate the assets of those bad people whose taxes are 'unfairly' low." The focus becomes raising the other guy's taxes instead of lowering yours and everyone else's. This clever ploy of the high taxers unfortunately seems to be working.

The flat taxers like to proclaim their plan to be "revenue-neutral," that is, the overall tax burden will not change. The lowering of some taxes on upper income groups, then, must be offset by "broadening the base," or by extending the tax burden to more people and sources of income. But who is to guarantee that once the base is broadened, and more income sources are brought under government's sway, it will not follow its natural proclivities and once again raise taxes for everyone?

What Is a Loophole?

It is ironic that the slogan "close the loopholes," which used to be a hallmark of left-liberalism, has now been adopted by the Reagan administration and by the flat taxers. The great free-market economist Ludwig von Mises once rose up in a conference on taxation that devoted much energy to the closing of tax loopholes, and asked the crucial question: "What is a loophole?" He answered that the assumption of the loophole theorists seemed to be that all of everyone's income really belongs to the government, and that if the government fails to tax all of it away, it is thereby leaving a "loophole" that must be closed. The same charge applies to the deductions, exemptions, credits, and all the other loopholes out of a flat tax so condemned by our tax reformers.

Let us now consider the vexed question of ending deductibility of state and local taxes—a vital point to our reformers—because ending deductibility will provide a huge bonanza for our federal tax collectors. The flat taxers argue that by allowing deductions, the citizens of low-tax cities and states are "subsidizing" the citizens of high-tax states, and that an end to deductions will put all regions on a plane of fairness and uniformity. Governor Mario Cuomo, on behalf of the notoriously tax-oppressed citizens of New York, accepted the charge of subsidy, and then eloquently threw it back to the critics of New York, asking, in effect, "What's wrong with a subsidy? Are you against the citizens of New York subsidizing tobacco farmers in North Carolina, or subsidizing highway contractors in Iowa?" As a rare consistent supporter of left-liberalism, Cuomo was able to reveal the hypocrisy of those whose attacks on subsidies habitually suffer from a convenient double (or triple) standard. Being a left-liberal, Cuomo was not equipped to go one step further—to step outside the mammoth subsidy system and ask the crucial question: Are Iowans really subsidizing New Yorkers under deductibility? Or are the oppressed and cruelly taxed New Yorkers being spared from being doubly taxed on their own income? The average New Yorker is not responsible for his high taxation; he suffers unwillingly under the highest sales, income, and property taxes in the country. Why should he suffer more than the average Iowan? What is so "fair" about that?

The Reagan administration supporters of ending deductibility offer a pragmatic or strategic argument in reply. If you tax New Yorkers higher up by eliminating deductions, then they will rise up and roll back New York state and city taxes to the lower Iowan level.

This is the old the-worse-the-better argument that unfortunately, in addition to being strategic rather than moral, never seems to work. One of the main arguments for bringing in the income tax in the early twentieth century was that now, in contrast to the indirect tariff, everyone would directly feel such a tax, and therefore the public would rise up to keep taxes low. Obviously it didn't work that way. Instead, we kept and increased tariffs, and we exploited a new tax source and raised it to gigantic and crippling proportions.

"Fairness": Equal Slavery

One dramatic way of looking at our tax system in relation to the question of subsidy or fairness is to assume for a moment that this is

1850, and that the question arises in the North as to what should be done with slaves who had managed to escape from the South. Let us assume that both sides of a growing debate are ardently in favor of freedom and are opposed to slavery. Group A hails the slaves' escape and advocates setting them free. But Group B argues as follows: "We are, of course, just as ardent a champion of slave freedom as the people of Group A. But we believe it is unfair for one group of slaves to escape, while the remainder of their brothers and sisters remain in slavery. Therefore, we hold that these escapees should be shipped back into slavery until such time as all the slaves can be freed together and simultaneously."

What would we think of such an argument? To call it specious would be a kindly understatement. But I submit that believers in the free market are arguing in precisely the same way when they say that all taxes must be uniform, and that all specific tax deductions or exemptions must be canceled until such time as everyone's taxes can be reduced uniformly. In both cases, the egalitarians are arguing not for equal freedom but for equal slavery or equal robbery in the name of "fairness." In both cases, the rebuttal holds that the enslavement or plunder of one group can in no way justify the enslavement or plunder of another, be it in the name of fairness, equity, or whatever.

The Argument for Misallocation of Resources

The most sophisticated argument of the flat tax reformers is that deductions, exemptions, and loopholes distort the allocation of resources from what it would be on the free market, and therefore should be abolished. This is an integral part of the neutrality-to-the-market argument, and is particularly insidious, because it makes the reformers appear to be knowledgeable and dedicated adherents of the free market. Let us take, for example, two credits or deductions: an investment tax credit, and an energy credit. The reformers argue that the result of the "subsidy" of tax credits is that more resources are now going into investment or energy, and less are going into other areas, than would on the free market, and that therefore these credits should be eliminated.

It is true that more resources are now going into investment, energy, and a slew of other areas, than would have in a purely free market system. But the reformers leave out a crucial point: what is the alternative? If investment, energy, or other credits or deductions are abolished, resources will not automatically go into more productive areas; instead, they go into government, via higher taxes. In short, the alternatives to energy credits are not merely Energy or All Other Consumption and Investment. They are threefold: Energy, Other Forms of Expenditure, and Government. And a higher tax will simply be wasted, thrown down the rathole of unproductive and profligate government spending. In short, there is no waste—no misallocation—like government; anything else would be an improvement.

The Way Out of the Mess

The policy conclusions that flow from our analysis are diametrically opposed to those of the flat taxers. In looking at the history of reform and at the arguments of the flat taxers, one can almost sympathize with Richard L. Doernberg, professor of law at Emory University, who throws up his hands and concludes that "We have a lousy system; let's leave it alone or it will get worse." Doernberg urges that the current tax code, as bad as it is, should remain precisely the way it is forever, so that at least people will know the score and be able to plan around its provisions.

But we can do better than that. We have to look differently at taxation. We have to stop looking at taxes as a mighty system for achieving social goals, which merely needs to be made "fair" and rational in order to usher in Utopia. We have to start looking at taxation as a vast system of robbery and oppression, by which some people are enabled to live coercively and parasitically at the expense of others. We must realize that from the point of view of justice or of economic prosperity, the less people are taxed, the better. That is why we should rejoice at every new loophole, new credit, new manifestation of the "underground" economy. The Soviet Union can produce or work only to the extent that individuals are able to avoid the myriad of controls, taxes, and regulations. The same is true of most Third World countries, and the same is increasingly true of us. Every economic activity that escapes taxes and controls is not only a blow for freedom and property rights; it is also one more instance of a free flow of productive energy getting out from under parasitic repression.

That is why we should welcome every new loophole, shelter, credit, or exemption, and work, not to shut them down but to expand them to include everyone else, including ourselves.

If, then, the standard for proper reform is to lower any and all taxes as much as possible, how might government services be supplied? To answer we must take a very hard look at government services. Are they "services," or are they embodiments of repression? Or are they "services," at best, that no one really wants? And if they are genuine services, wouldn't they be supplied more efficiently, as well as voluntarily, by private enterprise? And if our friends the tax reformers are so all-fired concerned about the free market, shouldn't they answer this question: Why not put your emphasis on privatizing and thereby drastically lowering/eliminating government services? Wouldn't that be really neutral to, and consistent with, the free market? How do we explain the fact that if we go back to the earlier years of our nation, the level of government spending and taxation—even adjusted for inflation and population growth—was enormously less, on every level of jurisdiction, than it is today? And yet the Republic survived, and even flourished.

We must, in short, get past the tax reformers' favorite ploy of revenue neutrality. Why must total revenue remain the same? Instead, it should be lowered drastically, and as much as possible.

We now return to the old question of "fairness": if there are any taxes or government spending left after our drastic cuts, how should the remaining taxes be levied? Here we reopen the point that fairness is the closest possible approximation to neutrality toward the free market. One method would be user fees, so that only direct users would pay for a service and there would be no extra coercion on non-users. For the rest, we should look at the free-market system of one price for a good or service. We might then suggest a system not of equal proportional income tax, but of equal tax, period. This is the age-old system of the "head tax," in which every citizen pays an equal amount each year to the government in payment for whatever services may have been conferred upon him from governments' existence during that year. The abolition of the income tax would mean the end of snooping and surveillance by the IRS as well as the elimination of vast economic distortions and oppression caused by the system; the end of sales and property taxes would also be a great boon to the freedom and prosperity of Americans.

We would then and only then have a tax system that truly, and at long last, fulfilled the proclaimed goals of our flat tax reformers. For here would be a system that would be truly simple, truly fair, and genuinely neutral to the free market. Short of that goal, we could settle temporarily for former Congressman Ron Paul's (R-TX) interesting variant of the flat tax proposal: reducing all income tax rates to 10 percent, while at the same time keeping all existing deductions, credits, and exemptions. The principle should be clear: to support all reductions in taxes, whether they be by lower rates or widening of exemption and deductions; and to oppose all rate increases or exemption decreases. In short, to seek in every instance to remove the blight of taxation as much as possible. Here is one reform, at least, that could not fall under Mencken's definition of a plot to injure the American taxpayer.

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The Consumption Tax: A Critique

The Alleged Superiority of the Income Tax

Orthodox neoclassical economics has long maintained that, from the point of view of the taxed themselves, an income tax is "better than" an excise tax on a particular form of consumption, since, in addition to the total revenue extracted, which is assumed to be the same in both cases, the excise tax weights the levy heavily against a particular consumer good. In addition to the total amount levied, therefore, an excise tax skews and distorts spending and resources away from the consumers' preferred consumption patterns. Indifference curves are trotted out with a flourish to lend the scientific patina of geometry to this demonstration.

As in many other cases when economists rush to judge various courses of action as "good," "superior" or "optimal," however, the *ceteris paribus* assumptions underlying such judgments—in this case, for example, that total revenue remains the same—do not always hold up in real life. Thus, it is certainly possible, for political or other reasons, that one particular form of tax is not likely to result in the same total revenue as another. The nature of a particular tax might lead to less or more revenue than another tax. Suppose, for example, that all present taxes are abolished and that the same total is to be raised from a new capitation, or head, tax, which requires that every inhabitant of the United States pay an equal amount to the support of federal, state, and local government. This would mean that the existing total government revenue of the United States, which we estimate at 1 trillion, 380 million dollars—and here exact figures are

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not important—would have to be divided between an approximate total of 243 million people. Which would mean that every man, woman, and child in America would be required to pay to government each and every year, $5,680. Somehow, I don't believe that anything like this large a sum could be collectible by the authorities, no matter how many enforcement powers are granted the IRS. A clear example where the ceteris paribus assumption flagrantly breaks down.

But a more important, if less dramatic, example is nearer at hand. Before World War II, Internal Revenue collected the full amount, in one lump sum, from every taxpayer, on March 15 of each year. (A month's extension was later granted to the long-suffering taxpayers.) During World War II, in order to permit an easier and far smoother collection of the far higher tax rates for financing the war effort, the federal government instituted a plan conceived by the ubiquitous Beardsley Ruml of R.H. Macy & Co., and technically implemented by a bright young economist at the Treasury Department, Milton Friedman. This plan, as all of us know only too well, coerced every employer into the unpaid labor of withholding the tax each month from the employee's paycheck and delivering it to the Treasury. As a result, there was no longer a need for the taxpayer to cough up the total amount in a lump sum each year. We were assured by one and all, at the time, that this new withholding tax was strictly limited to the wartime emergency, and would disappear at the arrival of peace. The rest, alas, is history. But the point is that no one can seriously maintain that an income tax deprived of withholding power, could be collected at its present high levels.

One reason, therefore, that an economist cannot claim that the income tax, or any other tax, is better from the point of view of the taxed person, is that total revenue collected is often a function of the type of tax imposed. And it would seem, that from the point of view of the taxed person, the less extracted from him the better. Even indifference curve analysis would have to confirm that conclusion. If someone wishes to claim that a taxed person is disappointed at how little tax he is asked to pay, that person is always free to make up the alleged deficiency by making a voluntary gift to the bewildered but happy taxing authorities.[1]

[1]In 1619, Father Pedro Fernandez Navarrete, "Canonist Chaplain and Secretary of his High Majesty," published a book of advice to the Spanish

A second insuperable problem with an economist's recommending any form of tax from the alleged point of view of the taxee, is that the taxpayer may well have particular subjective evaluations of the form of tax, apart from the total amount levied. Even if the total revenue extracted from him is the same for tax A and tax B, he may have very different subjective evaluations of the two taxing processes. Let us return, for example, to our case of the income as compared to an excise tax. Income taxes are collected in the course of a coercive and even brutal examination of virtually every aspect of every taxpayer's life by the all-seeing, all-powerful Internal Revenue Service. Each taxpayer furthermore is obliged by law to keep accurate records of his income and deductions and then, painstakingly and truthfully, to fill out and submit the very forms that will tend to incriminate him into tax liability. An excise tax, say on whiskey or on movie admissions will intrude directly on no one's life and income, but only into the sales of the movie theater or liquor store. I venture to judge that, in evaluating the "superiority" or "inferiority" of different modes of taxation, even the most determined imbiber or moviegoer would cheerfully pay far higher prices for whiskey or movies than neoclassical economists contemplate, in order to avoid the long arm of the IRS.[2]

The Forms of Consumption Tax

In recent years, the old idea of a consumption tax in contrast to an income tax has been put forward by many economists, particularly by allegedly pro-free market conservatives. Before turning to a critique of the consumption tax as a substitute for the income tax, it should be noted that current proposals for a consumption tax would

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monarch. Sternly advising a drastic cut in taxation and government spending, Father Navarrete recommended that, in the case of sudden emergencies, the king rely solely on soliciting voluntary donations. Alejandro Antonio Chafuen, *Christians for Freedom: Late Scholastic Economics* (San Francisco: Ignatius Press, 1986), p. 68.

[2]It is particularly poignant, on or near any April 15, to contemplate the dictum of Father Navarrete, that "the only agreeable country is the one where no one is afraid of tax collectors," ibid., p. 73. Also see Murray N. Rothbard "Review of A. Chafuen, *Christians for Freedom: Late Scholastic Economics*," *International Philosophical Quarterly* 28 (March 1988): 112–14.

deprive taxpayers of the psychic joy of eradicating the IRS. For while the discussion is often couched in either-or terms, the various proposals really amount to adding a new consumption tax on top of the current massive armamentarium of taxing power; in short, seeing that income tax levels may have reached their political limits for the time being, our tax consultants and theoreticians are suggesting a shining new tax weapon for the government to wield. Or, in the immortal words of that exemplary economic czar and servant of absolutism, Jean-Baptiste Colbert, the task of the taxing authorities is to "so pluck the goose as to obtain the largest amount of feathers with the least amount of hissing." We the taxpayers, of course, are the geese.

But let us put the best face on the consumption tax proposal, and deal with it as a complete replacement of the income tax by a consumption tax, with total revenue remaining the same. Our first point is that one venerable form of consumption tax not only retains existing IRS despotism, but makes it even worse. This is the consumption tax first prominently proposed by Irving Fisher.[3] The Fisher tax would retain the IRS, as well as the requirement that everyone keep detailed and faithful records and truthfully estimate his own taxes. But it would add something else. In addition to reporting one's income and deductions, everyone would be required to report his additions to or subtractions from capital assets (including cash) over the year. Then, everyone would pay the designated tax rate on his income minus his addition to capital assets, or net consumption. Or, contrarily, if he spent more than he earned over the year, he would pay a tax on his income plus his reduction of capital assets, again equalling his net consumption. Whatever the other merits or demerits of the Fisherine tax, it would add to IRS power over every individual, since the state of his capital assets, including his stock of cash, would now be examined with the same care as his income.

A second proposed consumption tax, the VAT, or value-added tax, imposes a curious hierarchical tax on the "value added" by each firm and business. Here, instead of every individual, every business

[3]See, for example, Irving and Herbert N. Fisher, *Constructive Income Taxation* (New York: Harper, 1942).

firm would be subjected to intense bureaucratic scrutiny, for each firm would be obliged to report its income and its expenditures, paying a designated tax on the net income. This would tend to distort the structure of business. For one thing, there would be an incentive for uneconomic vertical integration, since the fewer the number of times a sale takes place, the fewer the imposed taxes. Also, as has been happening in European countries with experience of the VAT, a flourishing industry may arise in issuing phony vouchers, so that businesses can overinflate their alleged expenditures, and reduce their reported value added. Surely a sales tax, other things being equal, is manifestly both simpler, less distorting of resources, and enormously less bureaucratic and despotic than the VAT. Indeed the VAT seems to have no clear advantage over the sales tax, except of course, if multiplying bureaucracy and bureaucratic power is considered a benefit.

The third type of consumption tax is the familiar percentage tax on retail sales. Of the various forms of consumption tax, the sales tax surely has the great advantage, for most of us, of eliminating the despotic power of the government over the life of every individual, as in the income tax, or over each business firm, as in the VAT. It would not distort the production structure as would the VAT, and it would not skew individual preferences as would specific excise taxes.

Let us now consider the merits or demerits of a consumption as against an income tax, setting aside the question of bureaucratic power. It should first be noted that the consumption tax and the income tax each carry distinct philosophical implications. The income tax rests necessarily on the ability-to-pay principle, namely the principle that if a goose has more feathers it is more ripe for the plucking. The ability-to-pay principle is precisely the creed of the highwayman of taking where the taking is good, of extracting as much as the victims can bear. The ability-to-pay principle is the philosophical embodiment of the memorable answer of Willie Sutton when he was asked, perhaps by a psychological social worker, why he robbed banks. "Because," answered Willie, "that's where the money is."

The consumption tax, on the other hand, can only be regarded as a payment for permission to live. It implies that a man will not be allowed to advance or even sustain his own life, unless he pays, off the top, a fee to the State for permission to do so. The consumption tax does not strike me, in its philosophical implications, as one whit more noble, or less presumptuous, than the income tax.

Proportionality And Progressivity: Who? Whom?

One of the suggested virtues of the consumption tax advanced by conservatives is that, while the income tax can be and generally is progressive, the consumption tax is virtually automatically proportional. It is also claimed that progressive taxation is tantamount to theft, with the poor robbing the rich, whereas proportionality is the fair and ideal tax. In the first place, however, the Fisher-type consumption tax could well be every bit as progressive as the income tax. Even the sales tax is scarcely free from progressivity. For most sales taxes in practice exempt such products as food, exemptions that distort individual market preferences and also introduce progressivity of taxation.

But is progressivity really the problem? Let us take two individuals, one who makes $10,000 a year and another who makes $100,000. Let us posit two alternative tax systems: one proportional, the other steeply progressive. In the progressive tax system, income tax rates range from 1 percent for the $10,000 a year man, to 15 percent for the man with the higher income. In the succeeding proportional system, let us assume, everyone, regardless of income, pays the same 30 percent of his income. In the progressive system, the low-income man pays $100 a year in taxes, and the wealthier pays $15,000, whereas in the allegedly fairer proportional system, the poorer man pays $3,000 instead of $100, while the wealthier pays $30,000 instead of $15,000. It is, however, small consolation to the higher-income person that the poorer man is paying the same percentage of income in tax as he, for the wealthier person is being mulcted far more than before. It is unconvincing, therefore, to the richer man to be told that he is now no longer being "robbed" by the poor, since he is losing far more than before. If it is objected that the total level of taxation is far higher under our posited proportional than progressive system, we reply that that is precisely the point. For what the higher income person is really objecting to is not the mythical robbery inflicted upon him by "the poor"; his problem is the very real amount being extracted from him by the State. The wealthier man's real complaint, then, is not how badly he is being treated relative to someone else, but how much money is being extracted from his own hard-earned assets. We submit that progressivity of taxes is a red herring; that the real problem and proper focus should be on the amount that any given individual is obliged to surrender to the State.[4]

The State, of course, spends the money it receives on various groups, and those who claim that progressive taxation mulcts the rich on behalf of the poor argue by comparing the income status of the taxpayers with those on the receiving end of the State's largess. Similarly, the Chicago School claims that the tax system is a process by which the middle class exploits both the rich and the poor, while the New Left insists that taxes are a process by which the rich exploit the poor. All of these attempts misfire by unjustifiably bracketing as one class the payers to, and recipients from, the State. Those who pay taxes to the State, be they wealthy, middle class or poor, are certainly on net, a different set of people than those wealthy, middle-class, or poor, who receive money from State coffers, which notably includes politicians and bureaucrats as well as those who receive favors from these members of the State apparatus. It makes no sense to lump these groups together. It makes far more sense to realize that the process of tax-and-expenditures creates two and only two separate, distinct, antagonistic social classes, what Calhoun brilliantly identified as the (net) taxpayers and the (net) tax-consumers, those who pay taxes and those who live off them. I submit that, looked at in this perspective, it also becomes particularly important to minimize the burdens which the State and its privileged tax-consumers place on the productivity of the taxpayers.[5]

The Problem of Taxing Savings

The major argument for replacing an income by a consumption tax is that savings would no longer be taxed. A consumption tax, its advocates assert, would tax consumption and not savings. The fact

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[4]For a fuller treatment, and a discussion of who is being robbed by whom, see Murray N. Rothbard, *Power and Market: Government and the Economy*, 2nd ed. (Kansas City: Sheed Andrews and McMeel, 1977), pp. 120–21.

[5]See Murray N. Rothbard, *Man, Economy, and State: A Treatise on Economic Principles*, 2nd. ed. (Los Angeles: Nash, 1970), vol. 2, pp. 791–92; idem, *Power and Market*, pp. 84–88, 14–16. Cf. John C. Calhoun, *A Disquisition on Government* (New York: Liberals Arts Press, 1953), pp. 16–18.

that this argument is generally advanced by free-market economists, in our day mainly by the supply-siders, strikes one immediately as rather peculiar. For individuals on the free market, after all, each decide their own allocation of income to consumption or to savings. This proportion of consumption to savings, as Austrian economics teaches us, is determined by each individual's rate of time preference, the degree by which he prefers present to future goods. For each person is continually allocating his income between consumption now, as against saving to invest in goods that will bring an income in the future. And each person decides the allocation on the basis of his time preference. To say, therefore, that only consumption should be taxed and not savings, is to challenge the voluntary preferences and choices of individuals on the free market, and to say that they are saving far too little and consuming too much, and therefore that taxes on savings should be removed and all the burdens placed on present as compared to future consumption. But to do that is to challenge free-market expressions of time preference, and to advocate government coercion to forcibly alter the expression of those preferences, so as to coerce a higher saving to consumption ratio than desired by free individuals.

We must, then, ask: by what standards do the supply-siders and other advocates of consumption taxes decide why and to what extent savings are too low and consumption too high? What are their criteria of "too low" or "too much," on which they base their proposed coercion over individual choice? And what is more, by what right do they call themselves advocates of the "free-market" when they propose to dictate choices in such a vital realm as the proportion between present and future consumption?

Supply-siders consider themselves heirs of Adam Smith, and in one sense they are right. For Smith, too, driven in his case by a deep-seated Calvinist hostility to luxurious consumption, sought to use government to raise the social proportion of investment to consumption beyond the desires of the free market. One method he advocated was high taxes on luxurious consumption; another was usury laws, to drive interest rates below the free market level, and thereby coercively channel or ration savings and credit into the hands of sober, industrious prime business borrowers, and out of the hands of "projectors" and "prodigal" consumers who would be willing to pay high interest charges. Indeed, through the device of the ghostly Impartial Spectator, who, in contrast to real human beings, is indifferent to the time at which he will receive goods, Smith virtually held a zero rate of time preference to be the ideal.[6]

The only coherent argument offered by advocates of consumption against income taxation is that of Irving Fisher, based on suggestions in John Stuart Mill.[7] Fisher argued that, since the goal of all production is consumption, and since all capital goods are only way-stations on the way to consumption, the only genuine income is consumption spending. The conclusion is quickly drawn that therefore only consumption income, not what is generally called "income," should be subject to tax.

More specifically, savings and consumption, it is alleged, are not really symmetrical. All saving is directed toward enjoying more consumption in the future. Potential present consumption is foregone in return for an expected increase in future consumption. The argument concludes that therefore any return on investment can only be considered a "double-counting" of income, in the same way that a repeated counting of the gross sales of, say, a case of Wheaties from manufacturer to jobber to wholesaler to retailer as part of net income or product would be a multiple counting of the same good.

This reasoning is correct as far as it goes in explaining the consumption-savings process, and is quite helpful in leveling a critique of conventional national income or product statistics. For these statistics carefully leave out all double or multiple counting in order to arrive at total net product, yet they arbitrarily include in total net income, investment in all capital goods lasting longer than one year—a clear example itself of double counting. Thus, the current practice absurdly excludes from net income a merchant's investment in inventory lasting eleven months before sale, but includes in net income investment in inventory lasting for thirteen months. The cogent conclusion is that an estimate of social or national income should include only consumer spending.[8]

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[6]See the illuminating article by Roger W. Garrison, "West's 'Cantillon and Adam Smith': A Comment," *Journal of Libertarian Studies* 7 (Fall, 1985): 291–92.

[7]See Rothbard, *Power and Market*, pp. 98–100.

[8]We omit here the fascinating question of how government's activities should be treated in national income statistics. See Rothbard, *Man, Economy, and State*, vol. 2, pp. 815–20; idem, *Power and Market*, pp. 199–201;

Despite the many virtues of the Fisher analysis, however, it is impermissible to leap to the conclusion that only consumption should be taxed rather than income. It is true that savings leads to a greater supply of consumer goods in the future. But this fact is known to all persons; that is precisely why people save. The market, in short, knows all about the productive power of savings for the future, and allocates its expenditures accordingly. Yet even though people know that savings will yield them more future consumption, why don't they save all their current income? Clearly, because of their time preferences for present as against future consumption. These time preferences govern people's allocation between present and future. Every individual, given his money "income"—defined in conventional terms—and his value scales, will allocate that income in the most desired proportion between consumption and investment. Any other allocation of such income, any different proportions, would therefore satisfy his wants and desires to a lesser extent and lower his position on his value scale. It is therefore incorrect to say that an income tax levies an extra burden on savings and investment; it penalizes an individual's entire standard of living, present and future. An income tax does not penalize saving *per se* any more than it penalizes consumption.

Hence, the Fisher analysis, for all its sophistication, simply shares the other consumption tax advocates' prejudices against the voluntary free-market allocations between consumption and investment. The argument places greater weight on savings and investment than the market does. A consumption tax is just as disruptive of voluntary time preferences and market allocations as is a tax on savings. In most or all other areas of the market, free market economists understand that allocations on the market tend always to be optimal with respect to satisfying consumers' desires. Why then do they all too often make an exception of consumption-savings allocations, refusing to respect time-preference rates on the market?

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idem, *America's Great Depression*, 4th ed. (New York: Richardson and Snyder, 1983), pp. 296–304; Robert Batemarco, "GNP, PPR, and the Standard of Living," *Review of Austrian Economics* 1 (1987): 181–86.

Perhaps the answer is that economists are subject to the same temptations as anyone else. One of these temptations is to call loudly for you, him, and the other guy to work harder, and save and invest more, thereby increasing one's own present and future standards of living. A follow-up temptation is to call for the *gendarmes* to enforce that desire. Whatever we may call this temptation, economic science has nothing to do with it.

The Impossibility of Taxing Only Consumption

Having challenged the merits of the goal of taxing only consumption and freeing savings from taxation, we now proceed to deny the very possibility of achieving that goal, i.e., we maintain that a consumption tax will devolve, willy-nilly, into a tax on income and therefore on savings as well. In short, that even if, for the sake of argument, we should want to tax only consumption and not income, we should not be able to do so.

Let us take, first, the Fisher plan, which, seemingly straightforward, would exempt saving and tax only consumption. Let us take Mr. Jones, who earns an annual income of $100,000. His time preferences lead him to spend 90 percent of his income on consumption, and save-and-invest the other 10 percent. On this assumption, he will spend $90,000 a year on consumption, and save-and-invest the other $10,000. Let us assume now that the government levies a 20 percent tax on Jones's income, and that his time-preference schedule remains the same. The ratio of his consumption to savings will still be 90:10, and so, after-tax income now being $80,000, his consumption spending will be $72,000 and his saving-investment $8,000 per year.[9]

Suppose now that instead of an income tax, the government follows the Irving Fisher scheme, and levies a 20 percent annual tax on Jones's consumption. Fisher maintained that such a tax would fall only on consumption, and not on Jones's savings. But this claim is incorrect, since Jones's entire savings-investment is based solely on

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[9]We set aside the fact that, at the lower amount of money assets left to him, Jones's time preference rate, given his time preference schedule, will be higher, so that his consumption will be higher, and his savings lower, than we have assumed.

the possibility of his future consumption, which will be taxed equally. Since future consumption will be taxed, we assume, at the same rate as consumption at present, we cannot conclude that savings in the long run receives any tax exemption or special encouragement. There will therefore be no shift by Jones in favor of savings-and-investment due to a consumption tax.[10] In sum, any payment of taxes to the government, whether they be consumption or income, necessarily reduces Jones's net income. Since his time preference schedule remains the same, Jones will therefore reduce his consumption and his savings proportionately. The consumption tax will be shifted by Jones until it becomes equivalent to a lower rate of tax on his own income. If Jones still spends 90 percent of his net income on consumption, and 10 percent on savings-investment, his net income will be reduced by $15,000, instead of $20,000, and his consumption will now total $76,000, and his savings-investment $9,000. In other words, Jones's 20 percent consumption tax will become equivalent to a 15 percent tax on his income, and he will arrange his consumption-savings proportions accordingly.[11]

We saw at the beginning of this paper that an excise tax skewing resources away from more desirable goods does not necessarily mean we can recommend an alternative, such as an income tax. But how about a general sales tax, assuming that one can be levied politically with no exemptions of goods or services? Wouldn't such a tax burden be only on consumption and not income?

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[10]In fact, per note 9, supra, there will be a shift in favor of consumption because a diminished amount of money will shift the taxpayer's time preference rate in the direction of consumption. Hence, paradoxically, a pure tax on consumption will end up taxing savings more than consumption! See Rothbard, *Power and Market*, pp. 108–11.

[11]If net income is defined as gross income minus amount paid in taxes, and for Jones, consumption is 90 percent of net income, a 20 percent consumption tax on $100,000 income will be tantamount to a 15 percent tax on this income. Rothbard, *Power and Market*, pp. 108–11. The basic formula is that net income,

$$N = \frac{G}{1 + tc}$$

where G = gross income, t = the tax rate on consumption, and c, consumption as percent of net income, are givens of the problem, and N = G-T by definition, where T is the amount paid in consumption tax.

In the first place, a sales tax would be subject to the same problems as the Fisher consumption tax. Since future and present consumption would be taxed equally, there would again be shifting by each individual so that future as well as present consumption would be reduced. But, furthermore, the sales tax is subject to an extra complication: the general assumption that a sales tax can be readily shifted forward to the consumer is totally fallacious. In fact, the sales tax cannot be shifted forward at all!

Consider: all prices are determined by the interaction of supply, the stock of goods available to be sold, and by the demand schedule for that good. If the government levies a general 20 percent tax on all retail sales, it is true that retailers will now incur an additional 20 percent cost on all sales. But how can they raise prices to cover these costs? Prices, at all times, tend to be set at the maximum net revenue point for each seller. If the sellers can simply pass the 20 percent increase in costs onto the consumers, why did they have to wait until a sales tax to raise prices? Prices are already at highest net income levels for each firm. Any increase in cost, therefore, will have to be absorbed by the firm; it cannot be passed forward to the consumers. Put another way: the levy of a sales tax has not changed the stock already available to the consumers; that stock has already been produced. Demand curves have not changed, and there is no reason for them to do so. Since supply and demand have not changed, neither will price. Or, looking at the situation from the point of the demand and supply of money, which help determine general price levels, the supply of money has remained as given, and there is also no reason to assume a change in the demand for cash balances either. Hence, prices will remain the same.

It might be objected that, even though shifting forward to higher prices cannot occur immediately, it can do so in the longer run, when factor and resources owners will have a chance to lower their supply at a later point in time. It is true that a partial excise can be shifted forward in this way, in the long run, by resources leaving, let us say, the liquor industry and shifting into other untaxed industries. After a while, then, the price of liquor can be raised by a liquor tax, but only by reducing the future supply, the stock of liquor available for sale at a future date. But such "shifting" is not a painless and prompt passing on of a higher price to consumers; it can only be accomplished in a longer run by a reduction in the supply of a good.

The burden of a sales tax cannot be shifted forward in the same way, however. For resources cannot escape a sales tax as they can an excise tax: by leaving the liquor industry and moving to another. We are assuming that the sales tax is general and uniform; it cannot therefore, be escaped by resources except by fleeing into idleness. Hence, we cannot maintain that the sales tax will be shifted forward in the long run by all supplies of goods falling by something like 20 percent (depending on elasticities). General supplies of goods will fall, and hence prices rise, only to the relatively modest extent that labor, seeing a rise in the opportunity cost of leisure because of a drop in wage incomes, will leave the labor force and become voluntarily idle (or more generally will lower the number of hours worked).[12]

In the long run, of course, and that run is not very long, the retail firms will not be able to absorb a sales tax; they are not unlimited pools of wealth ready to be confiscated. As the retail firms suffer losses, their demand curves for all intermediate goods, and then for all factors of production, will shift sharply downward, and these declines in demand schedules will be rapidly transmitted to all the ultimate factors of production: labor, land, and interest income. And since all firms tend to earn a uniform interest return determined by social time preference, the incidence of the fall in demand curves will rest rather quickly on the two ultimate factors of production: land and labor.

Hence, the seemingly common-sense view that a retail sales tax will readily be shifted forward to the consumer is totally incorrect. In contrast, the initial impact of the tax will be on the net incomes of retail firms. Their severe losses will lead to a rapid downward shift in demand curves, backward to land and labor, i.e., to wage rates and ground rents. Hence, instead of the retail sales tax being quickly and painlessly shifted forward, it will, in a longer-run, be painfully shifted backward to the incomes of labor and landowners. Once again, an alleged tax on consumption has been transmuted by the processes of the market into a tax on incomes.

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[12]Rothbard, *Power and Market*, pp. 88–93. Also see the notable article by Harry Gunnison Brown, "The Incidence of a General Sales Tax," in *Readings in the Economics of Taxation*, R. Musgrave and C. Shoup, eds. (Homewood, Ill.: Irwin, 1959), pp. 330–39.

The general stress on forward shifting, and neglect of backward-shifting, in economics, is due to the disregard of the Austrian theory of value, and its insight that market price is determined only by the interaction of an already produced stock, with the subjective utilities and demand schedules of consumers for that stock. The market supply curve, therefore, should be vertical in the usual supply-demand diagram. The standard Marshallian forward-sloping supply curve illegitimately incorporates a time dimension within it, and it therefore cannot interact with an instantaneous, or freeze-frame, market demand curve. The Marshallian curve sustains the illusion that higher cost can directly raise prices, and not only indirectly by reducing supply. And while we may arrive at the same conclusion as Marshallian supply-curve analysis for a particular excise tax, where partial equilibrium can be used, this standard method breaks down for general sales taxation.

Conclusion: The Amount vs. the Form of Taxation

We conclude with the observation that there has been far too much concentration on the form, the type of taxation, and not enough on its total amount. The result has been endless tinkering with kinds of taxes, coupled with neglect of a far more critical question: how much of the social product should be siphoned away from the producers? Or, how much income should be retained by the producers and how much income and resources coercively diverted for the benefit of non-producers?

It is particularly odd that economists who proudly refer to themselves as advocates of the free market have in recent years led the way in this mistaken path. It was allegedly free market economists for example, who pioneered in and propagandized for, the alleged Tax Reform Act of 1986. This massive change was supposed to bring us "simplification" of our income taxes. The result, of course, was so simple that even the IRS, let alone the fleet of tax lawyers and tax accountants, has had great difficulty in understanding the new dispensation. Peculiarly, moreover, in all the maneuverings that led to the Tax Reform Act, the standard held up by these economists, a standard apparently so self-evident as to need no justification, was that the sum of tax changes be "revenue neutral." But they never told us what is so great about revenue neutrality. And of course, by cleaving to such a standard, the crucial question of total revenue was deliberately precluded from the discussion.

Even more egregious was an early doctrine of another group of supposed free-market advocates, the supply-siders. In their original Laffer-curve manifestation, now happily consigned to the dustbin of history, the supply-siders maintained that the tax rate that maximizes tax revenue is the "voluntary" rate, and a rate that should be diligently pursued. It was never pointed out in what sense such a tax rate is "voluntary," or what in the world the concept of "voluntary" has to do with taxation in the first place. Much less did the supply-siders in their Lafferite form ever instruct us why we must all uphold maximizing government revenue as our beau ideal. Surely, for free-market proponents, one might think that minimizing government depredation of the private product would be a bit more appealing.

It is with relief that one turns for a realistic as well as a genuine free-market approach to Jean-Baptiste Say, who contributed considerably more to economics than Say's Law. Say was under no illusion that taxation is voluntary nor that government spending contributes productive services to the economy. Say pointed out that, in taxation, "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, so that "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." Note, that as in the case of the later Calhoun, Say sees that taxation creates two conflicting classes, the taxpayers and the tax-gatherers. 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 that consumption."

Say proceeds to denounce the "prevalent notion, that the values, paid by the community for the public service, return it again . . .; that what government and its agents receive, is refunded again by their expenditures." Say angrily comments that this "gross fallacy . . . has been productive of infinite mischief, inasmuch as it has been the pretext for a great deal of shameless waste and dilapidation." On the contrary, Say declares, "the value paid to government by the taxpayer is given without equivalent or return; it is expended by the government in the purchase of personal service, of objects of consumption."

Say goes on to denounce the "false and dangerous conclusion" of economic writers that government consumption increases wealth. Say noted bitterly that "if such principles were to be found only in books, and had never crept into practice one might suffer them without care or regret to swell the monstrous heap of printed absurdity." But unfortunately, he noted, these notions have been put into "practice by the agents of public authority, who can enforce error and absurdity at the point of a bayonet or mouth of the cannon."[13] Taxation, then, for Say 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.[14]

But taxation, for Say, is not merely a zero-sum game. By levying a burden on the producers, he points out, taxes, over time, cripple production itself. Writes Say:

> 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 an useful employment. . . . [T]herefore, the subtraction of a product must needs diminish, instead of augmenting, productive power.

J.B. Say's policy recommendation was crystal clear and consistent with his analysis and that of the present paper. "The best scheme of public finance is, to spend as little as possible; and the best tax is always the lightest."[15] What conclusion can be more fitting for April 15?

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[13]Jean-Baptiste Say, *A Treatise on Political Economy*, 6th ed. (Philadelphia: Claxton, Remsen and Heffelfinger, 1880), pp. 412–15. Also see Murray N. Rothbard, "The Myth of Neutral Taxation," *Cato Journal* 1 (Fall, 1981): 551–54; included in this volume as chapter 24.

[14]Say, *Treatise*, pp. 4–6.

[15]Ibid., p. 449.

27
The Case Against the Flat Tax

"Special Interests": Good or Bad?

The flat tax draws virtually unanimous support from the right-thinking intellectuals in our society, including academics, writers, and media pundits. By "right-thinking" I mean all people who have managed successfully to identify their own views, whatever they may be, with the general welfare. By this time, however, the cautious should be on the alert: any policy that draws unanimous support from these people can't be all good. There must be a catch somewhere.

The flat tax has been cleverly labeled a tax "reform," the very word "reform" being heavy with the implication that no man or woman of good will, be they liberal or conservative, Democrat or Republican, can possibly stand opposed to such a plan. My favorite writer, H.L. Mencken, once wrote that he had learned at his father's knee in Baltimore what "reform" in politics really meant: "mainly a conspiracy of prehensile charlatans to mulct the taxpayer."

So convinced are the flat-taxers that only they have a pipeline to interpret the general welfare, that they invariably charge that any and all critics of their scheme are simply spokesmen for a sinister and shadowy group they commonly refer to as "the special interests." "Special interests" seems to be an effective way to write off substantial opposition to the flat-tax, especially since the convenient tendency of intellectuals is to dismiss all other interests but their own as "special" and hence somehow narrow and sinister.

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But are special interests all bad? Some undoubtedly are. Take, for example, the sugar program to which all of us have been subjected for a half-century. In order to maintain and expand the inefficient U.S. sugar industry, the sugar interests have for decades propped up sugar prices by use of government, and lobbied for severe quotas on the import of sugar. As a result, American consumers (to say nothing of foreign sugar producers) have been hurt severely, the supply of sugar sharply restricted, and the price artificially raised—so that the support price of sugar in the U.S. is now no less than seven times higher than the world market price. Here is a clear-cut example of aggression by special interests.

But there are also cases of special interests acting defensively, rather than aggressively. Several years ago, for example, the movie theaters circulated petitions urging that a new tax on movie admissions be repealed. I was happy to sign that petition both because I believed that the cause of the theaters was just and also that my own and other movie consumers' rights and interests were being invaded by the government.

But wasn't this special pleading on the part of the movie theaters? Yes, and so what? There is no reason to expect that movie theaters will be in the forefront of actions to protect the rights and incomes of, say, restaurants. In all cases where special interests are acting defensively, the front fighters for the rights of consumers will naturally be the particular firms or industries that happen to be under attack. Who else would we expect to sound the alarm?

To return now to the flat tax: the seductive rhetoric invoking the "special interests" has lead most people to believe that everyone will benefit from the flat tax except a few wicked corporations or multimillionaires. Nothing could be further from the truth. If the flat tax is enacted, millions of us will find out, too late and to our chagrin, that, to paraphrase Pogo: "We have met the special interests and they are us." Or as Senator Robert Dole (R-KS) put it recently on the issue of the flat tax as an allegedly fair tax: "Everybody believes in fairness unless they're involved."

Before we go down the list of "special interests" who would be hurt by the enactment of a flat tax, I want to stress that I'm talking about the pure flat tax concept, rather than the current approach to it submitted last fall by then-Secretary of the Treasury Donald Regan or this spring by Treasury Secretary James Baker. These present as much of the flat tax as the Treasury thought it could get away with politically. But the argument for these plans are that they approach the ideal of the flat tax, and so it is that ideal that should be examined.

The flat tax, quite simply, proposes that every individual and every organization be subjected to the same, uniform proportional income tax. To achieve that uniformity, the flat-taxers propose the ruthless suppression of all credits, deductions, exemptions, and shelters, all of which are sneered at as "loopholes" in the tax system. In the flat-taxers' pure theory, the proportional income tax would apply to everyone regardless of income. But early in the development of the flat-tax movement they decided that, politically, the poor would have to be exempt from the tax. As a result, all flat tax schemes are now "degressive": proportional above an arbitrary minimum income floor, below which line income receivers pay no taxes, The "degressivity" leaves an important element of progressivity in what has been touted as a strictly proportional plan.

What Is a "Loophole"?

It is instructive to pause for a moment to examine the pejorative term "loophole." What is a "loophole," anyway? It is never defined, but the flat-taxers seem to make the implicit assumption that the government really owns, or should be owning, all of what everyone makes, at least up to some arbitrary percentage decided by the government. Hence, any failure of government to confiscate everyone's property up to that amount is somehow a moral blot that needs to be rectified. But to me it is far from self-evident that the government, rather than we ourselves, should have the primary right to our own earnings.

The "closing of loopholes" under a flat tax will mean a merciless and continuing search-and-destroy mission by which the government will root out and obliterate every little hideyhole in which many of us have been able to squirrel away a bit of our own earnings and our own property, and keep them safe from the ever-expanding maw of the federal government.

Wrapped up in the confusion over the role of "special interests" is a muddle over the concept of "subsidy." Flat-taxers call these exemptions, deductions, and loopholes "subsidies," and being staunchly opposed to subsidies, flat-taxers propose to eliminate them. But is it really a "subsidy" to be allowed to keep more of your own money? Only if we agree with the curious implicit assumption of the flat-taxers that the government, not us, really owns our earnings and our property, and that therefore being allowed to keep some of them is an arbitrary indulgence on its part.

I submit, to the contrary, that there is a big and crucial difference between the government's taxing Peter to pay Paul, which is a "subsidy" to Paul, and the government's allowing Paul to keep more of his own funds. That can only be called a "subsidy" on the grotesque assumption that the government really owns all of our property to begin with.

Before examining the "special interests" who will lose, and often lose heavily, from the imposition of a flat tax, let me say that, strictly for the sake of argument, I will begin by granting, for the time being, the flat-taxers their insistent point that the shift to their tax will be strictly "revenue-neutral," that is, that total tax revenue will remain exactly the same from the shift, and will not increase.

Let us now go down the list of heavy losers from the imposition of the flat tax:

Receivers of "Imputed" Income

The flat taxers are nothing if not sophisticated economic theorists, and they realize that we receive our incomes, not only in money but also in other ways, by goods or services "in kind," or in various psychic ways. They also realize that much of the flowering of non-money incomes, to which they "impute" monetary value, has come about precisely in order to avoid some of the confiscations of the taxing system. Since income taxes are levied on money income, people tend to shift as much income as possible from monetary to non-monetary forms.

And so, people pay and receive income in non-monetary ways: if a carpenter goes to a physician for treatment, he may meet his bill by fixing the doctor's house rather than by money payment. Employees receive much of their income in non-monetary "fringe benefits," which may accrue in money only in the future. Salesmen and executives take some of their salary, not in money income, but in blissfully tax-free "perks" such as expense accounts, and the much-cherished business lunch.

But the flat-taxers, in their puritanical frenzy at seeing anyone escape their allotted payment of taxes, are out to get rid of all that. It is good-bye to the tax-free fringe benefit, the expense account, the business lunch. And what will happen to the restaurant business, the hotel business? The flat-taxers, like all puritans, like all fanatics, care not; they are ready to wreak unlimited havoc in the name of attaining their ideal.

For one thing, there is the American homeowner. Every homeowner is going to get it, but good, under the flat-tax regime. The flat-taxers, for example, have figured out that homeowners benefit, in a real though non-monetary way, by not having to pay rent. And so the flat-taxers propose to tax every homeowner on the "imputed rent" they are earning by not having to pay rent to a landlord. If, for example, you own your own home, and some officials figure out that you would have been paying $1,200 a month if you had been renting the home, then you will have to pay a proportional tax on this imputed total.

Unfortunately, no one has yet figured out a way to pay "imputed" taxes. The IRS insists on cold hard cash. And so it is going to be very painful for many people to have to pay taxes in money on income which is only psychic. As we will see shortly, the flat-taxers are out to tax capital gains fully as much as if they were earned income, as indeed they are. But if they had their druthers, they would tax these gains, not when we realize them in money form, but every year, as they accrue.

It is going to be very difficult for many people to pay through the nose on capital gains from increases in the value of their stocks or their homes, gains which they can only reap when they come to sell their asset. In the regime of the flat-taxers, there will be a great deal of painful forced-selling of homes and other assets. And to think, all this in the sacred name of the twin watchwords of the flat-taxers: "Simplicity" and "Fairness"!

It's a good thing that the flat-taxers haven't yet figured out how to tax us on our leisure, although as good puritans I'm sure they're working on it.

Payers of Interest

Interest payments are expenses that the government allows us to deduct from taxable income. They will be brought under the heel by the flat-taxers. But if interest payments are no longer deductible, this means that one of the great economic advantages of owning a home, being able to deduct mortgage interest payments from taxes, will disappear. Notice that all of America's homeowners will be clobbered four ways by the ruthless ideologues of the flat-tax movement. One, as we have seen, homeowners will lose by being forced to pay taxes on their "imputed rent"; two, they will no longer be able to deduct interest payments on mortgages; and three and four, the value of their homes, on which they count when they wish to move, will be forced down because the after-tax return on the house will decline from the two increased tax levies.

I fail to follow the logic on this one: I can see why those who earn interest have to pay taxes on this income; but I fail to see why those who pay interest have to shell out more as well. In fact, this looks to me like double taxation on the same income, and if the flat-taxers were not self-proclaimed experts on "fairness," I would even go so far as to say that double taxes on the same income are unfair.

Receivers of Capital Gains

The flat-taxers are also astute enough to realize that capital gains constitute income. But on the other hand, profits add to capital gains, and since they propose to tax profits too, they are, once again, double-taxing the same income. At the very least then, profits should no longer be taxed if capital gains are as well. Relentless in pursuing any bit of untaxed income, the flat-taxers note that capital gains have been taxed much less in recent years than other income, and so they propose to pile on higher taxes so as to bring about the desired uniformity.

But higher capital gains taxation will strike hardest and foremost at the new, young, venture capitalists going into high-risk, progressive industries. Heavy capital gains taxation will strike a deadly blow precisely at new, high-risk venture capital. Do we really want to cripple these firms and ventures?

We have already pointed to the extra difficulties if flat-taxers pursue their prey to the last ounce and insist on taxation of accrued, and not just realized, capital gains.

It is common knowledge that Great Britain's economy since World War II has suffered grievously from very high levels of income tax. One of the reasons that Britain has not gone completely down the drain is that, fortunately, its government has levied no tax on capital gains, thus allowing many capital ventures to flourish. Our implacable flat-tax Jacobins would make sure to close that loophole.

Accelerated Depreciators and Investors

But let it not be thought that our flat-taxers are only out to make life difficult for new venture capitalists. The old-line smokestack industries, already in decline, will get theirs too. One of the great problems of the older, heavily capitalized industries is that their profits have not been high enough to permit them to maintain and modernize their capital to allow them to compete with newer firms at home and abroad.

Two highly beneficial tax reforms of the first year of the Reagan administration were (1) allowing investment credit on corporate and personal income tax for investing in capital; and (2) permitting business firms to accelerate the depreciation of their capital at virtually any speed. The investment credit has allowed heavily capitalized firms to keep more of their profits, and invest them in maintaining and expanding their capital.

Now, under the thrall of the flat-tax ideologues, the administration proposes to get rid of its own salutary reforms. Both of them are now derided as "subsidies." But, once again, the investment credit allows people to keep more of their money if used for investment. Neither can one call accelerated depreciation a subsidy. There is no reason why a business should not be able to depreciate its capital at any pace it wants. Its total, long-run tax bill does not even decline; what a business is permitted to do is, instead of extending a depreciation allowance over, say, the ten-year life of a machine, to choose instead to take the entire allowance off now, so as to be able to buy a new machine and pay the same total tax bill out of the returns of the new machine over the next nine years. Accelerated depreciation simply allows firms to arrange the time-schedule of their payments in the most convenient and efficient ways.

Owners of Natural Resources

Let it not be thought that owners of natural resources, such as oil, natural gas, and metallic mines, will get off scot free. On the contrary, they will be among the worst losers from the tyranny of the flat-taxers. Economists in general, let alone flat-taxers, have long denounced depletion allowances of natural resource owners as an outrageous subsidy. Since oil and natural gas companies, in the public's folk mythology, are considered especially wicked, this part of the flat-tax creed enjoys wide popularity. Yet, in actuality, apart from the fact that the right to keep one's own money can hardly be called a subsidy, there is another important fallacy in calling depletion allowances a subsidy.

An income tax, by its very name, is designed as a tax on annual income, not on accumulated wealth. A tax on wealth directly confiscates property and brings about a decline in the structure of capital and hence of everyone's standard of living. But then we must realize that if we make the grave mistake of treating a using-up of capital as a firm's income, and tax it accordingly, we will precipitate a decline in its capital structure and impose severe losses upon the firm.

Suppose, for example, that a crude oil company produces and sells oil, and makes a net income from the sale of $100 million. But the oil in its reserves has now been diminished; if we can determine, say, that the value of its underground oil has gone down by $70 million, then the net income of the company has only been $30 million. To tax it as if its income has been $100 million will unwittingly impose crippling losses upon the company. And yet, our flat-taxers, true to form, propose to do precisely that. And the value of stock investments in oil and mineral resource companies will, of course, decline as well.

Corporations

Lest we think that only the new venture firms and the older smokestack industries will get the axe from our flat-taxers, we should know that all corporations will suffer, for the corporate income tax will increase substantially, to make the tax on a par and uniform with the tax on the income of individuals. Everything, again, looks neat and "fair," with all individuals and organizations paying a uniform rate.

But if, in the famous Milton Friedman formula, TANSTAAFL (there ain't no such thing as a free lunch), then we can also add the term TANSTAAC (there ain't no such thing as a "corporation"). There is no existing entity called a "corporation" that feels, works, thinks, earns income, and then enjoys that income. A "corporation" is only a label for individuals who organize themselves, and hope to earn income, in certain ways. There is no income-earning thing called a "corporation" that exists and earns income above and beyond the people, that is, the stockholder-owners, who constitute that corporation. Therefore, a tax on corporate income is an unjust and "unfair" (if I may use that term) double tax on the same income, as well as a tax hitting at savings and investment. Instead of raising income tax rates on corporations, as the Treasury plan and the flat-taxers would do, we should move in the other direction, end double taxation, and cut the corporate tax to zero. Stockholders should be taxed just once, on the income they individually earn from the corporate form. Even President Reagan himself had been known to voice such sentiments.

State and Local Taxpayers

And now we come to a category of losers from the flat tax that I find particularly outrageous, since I live in New York City, where I and millions of other hapless citizens are mulcted into paying the highest state income tax in the nation, the highest city income tax in the country, and the highest sales tax.

After having been chastised for so many years with whips, the flat-taxers now arrive on the scene to chastise us with scorpions. It seems that being able to deduct our massive state and local taxes from our federal taxable income has only been a wicked "subsidy," and so now even that small consolation will be snatched from us.

It goes without saying that flat-taxers are zealots in favor of taxing the interest from municipal bonds—a long-standing goal of liberals in order to aggrandize the power of the federal government as against the states. If municipal bonds are taxed, their value will of course plummet, as will the credit and the power of state and local government to float bonds. More and more spending will then be centralized in the hands of a super-powerful federal government.

Is that all we really want? I suppose there is no reason to raise the point that federal taxing of municipal bonds is clearly unconstitutional, as would be state taxation of Treasury bonds, for since when has anyone worried about the provisions of the Constitution of the United States?

The Charitable and the Non-Profitable

One important tax deduction to be swept away would be gifts to charities or other non-profit organizations. Since much charity is now done under the gun of the IRS, the result of the flat-tax would be a drastic crippling of private charitable and educational organizations. Why should giving to charities, the arts, and educational institutions be hobbled and penalized, in the name of "simplicity" and "fairness?" The severe losses of many of these organizations would lead them to turn to the federal government to bail them out, in effect nationalizing private charity and expanding and aggrandizing the federal welfare state. All universities and nonprofit institutions that depend on voluntary giving would be victims of the zeal of our single-minded flat-taxers.

Victims of Fire, Sickness, and Accident

There are even more helpless victims who will fall under the heel of the flat-taxers. Every man or woman who falls sick and whose medical payments are not insured, will, in flattaxland, be unable to deduct these payments from his taxable income. No victim of fire, uncovered by insurance, will any longer be able to deduct his losses. And so life's unfortunates, run over by accident or disease, will be run over a second time, this time in the name of "equality" and "fairness."

Entrepreneurial Losers

Some entrepreneurs make profits; others suffer losses. That is the essence of entrepreneurship. While I don't believe that losers should be bailed out or subsidized by the government, it seems like excessive punishment for government to kick them while they're down. But this is precisely what our flat-taxers are planning to do. For while it is difficult to claim that losses, like profits, somehow constitute net income, this is precisely how flat-taxers regard them: as hidden income to be ferreted out and taxed. We have heard for years about those evil "tax shelters" which "they," the wicked rich, like to indulge in. But mainly these "shelters" are losing propositions, the losses of which partially offset net income in other areas. How can we call such shelters "income"?

I, for example, in addition to being a salaried professor, am a self-employed author and lecturer. Some years, I make a net income from this business, other years I suffer losses. Who are the flat-taxers to come swooping down, and they or the IRS to try to pry into my soul, and announce either that I am a genuine but sometimes losing entrepreneur, or that in my secret heart of hearts I rejoice in my losses because it lowers my taxable income? Are the flat-taxers or the IRS truly qualified to examine everyone's heart and soul and decide on everyone's inner motives? And, in the last analysis, how dare they anyhow?

Let everyone, then, realize that the "they," the "special interests" who will be hurt, and perhaps hurt badly, from the flat tax, are not just a few shadowy and malevolent millionaires.

While it is not really possible to average out pain or loss among individuals and make it disappear, there is every reason to believe that, on the average, upper-income groups will probably benefit on net from the fall in tax rates under the flat tax, whereas the middle class, as usual, will be hit and hit hard. So what else is new?

The Argument From Fairness

The major argument for the flat tax is not economic but moral, namely that this is the only fair way to distribute taxation. The assumption is that, given an arbitrarily determined total revenue to the government, that revenue should be distributed in a uniform, flat-tax manner.

But the flat-taxers do not really argue their point; they simply assume it as self-evident to all people of good will. Well, sorry, but I don't see it. I don't see why it is particularly "fair" to clobber the sick, the sufferers from accidents, or the homeowners, or why it is fair to impose monetary taxes on earners of non-monetary income.

More specifically, I don't see why proportional taxation is any "fairer" than many other possible patterns of distribution. Take, for example, Mr. A and Mr. B, each of whom earns a net income of, say, $50,000 a year. But Mr. A is a young man, just starting in life, with virtually zero assets. He depends on personal savings to finance a future business.

Mr. B, on the other hand, is an older man who has already built up or inherited millions of dollars in assets. Why is it manifestly fair for him to pay the same tax as Mr. A? Neither is it obvious to me that a sick person with heavy medical bills should pay the same tax as a healthy man with the same income. Note that I am not saying the opposite: I am not advocating a tax on health or on wealth. I'm simply saying that there seems to be no convincing argument for the fairness of one pattern of taxation over another.

In fact, I will go even further, and say that fairness has little or nothing to do with the matter, that, in fact, TANSTAAFT ("there ain't no such thing as a fair tax"). Conservative flat-taxers like to analogize to the free market, and maintain that they are trying to achieve neutrality to the market. But consider: what in the world is a "fair" price on the market?

Many medieval economists came to grief on this issue. What is the "fair price," for example, of Wonder Bread? Who knows? For my part, as a Wonder Bread consumer, I'd love to see the price down to about a penny a loaf, and the Wonder Bread Company would undoubtedly love to be able to charge $100 a loaf. As it is, after the higgling and haggling of the market, we all settle for about one dollar a loaf. There seems to be no sense to the concept of fairness in price except what is arrived at, from day to day, as the result of voluntary transactions on the market.

But what of taxation? Unfortunately, we can't even apply the voluntary transaction criterion here, because by its very nature, taxation is coercive, and is not arrived at by the voluntary bargaining of individuals on the market. So what then is a "fair" tax? I submit that the concept simply doesn't apply.

All I know is that, as a taxpayer, I would like my taxes to be as low as possible. I suggest, then, that we cease the impossible quest for fairness in taxation, and try to arrive at taxes as low as possible. For whom? For everyone.

One of my favorite economists, the nineteenth-century Frenchman, J. B. Say, after pointing out that taxation is a coercive transfer from individuals and groups to the government, crippling their ability to produce and consume, concluded:

"The best scheme of finance is to spend as little as possible; and the best tax is always the lightest." In short, to paraphrase Jefferson, "That government is best which spends and taxes least."

Instead of worrying about distributing taxes "fairly," or what is supposed to amount to the same thing, allocating tax suffering equally, we should set about trying to minimize tax suffering as much as we can down the line. And if we approach the problem that way, we should find it easier to gain broad agreement. Rather than trying to figure out whether a proportional, degressive, regressive, or progressive income tax structure is "fairest," we may find we can agree on reducing the tax burden of everyone.

Thus, let us compare two hypothetical tax systems. In system A, there is a progressive income tax, ranging from one to ten percent. In system B, everyone pays a flat, strictly proportional income tax, of 20 percent. I have a hunch that, in choosing between these systems, even the upper-income groups would opt for the far more progressive, but much lower tax burden. The central point is the lowness of each tax, rather than the distribution of the burden.

People are, or should be, interested in lowering their own tax burden rather than enviously trying to aggravate the burdens of other people. And here is a genuine basis for solidarity among taxpayers of all groups and sizes. The point, then, is not that "they"—whoever "they" are—are paying too little taxes and should be brought to heel. The point is that all of us are paying too much. The flat-tax movement is part of a process by which the government and its allies have been able to split and deflect the tax protest movement from trying to lower the taxes of everyone, into trying to force everyone into paying some arbitrarily defined "fair share."

The Argument From Neutrality to the Market

An important argument of the flat-taxers, especially those who claim devotion to the free market, is that their plan is needed to restore the allocation of resources to what would have been the pattern on the market: in short, that the flat tax is uniquely neutral to the market.

The argument runs as follows: credits, deductions, loopholes distort resources relative to the free market because more resources go into the loopholes than would otherwise. Thus, an investment tax credit means that more resources will go into investment than would a free market.

Suppose that there are only two industries in the economy, machine tools and wheat. If machine tools receive an investment tax credit, more resources will be poured into machine tools relative to wheat than on the purely free market. Therefore, the tax credit distorts resources, and a flat tax, by eliminating that credit, will correct the distortion and restore genuine market conditions.

But this argument overlooks a crucial point: namely, that even in our simple model, much less in the real world, there is still another channel for the allocation of resources, namely government. In our example, if resources did not go into machine tools because of the special credit, they would have gone not into wheat but into government, and government is far less neutral to the market than any other allocation.

In other words, from the point of view of the free market, any allocation of economic resources in the private sector, whether machine tools, wheat, or whatever, is better, that is, closer to the free market, than those resources going into the maw of government. If neutrality to the free market is really the consideration, then free-marketeers would rejoice with the creation of one more loophole, one more nook and cranny safe from the tax-man. The key point to focus on is private resources *vis-à-vis* government.

It has been completely overlooked that the Reagan administration, while submitting the Treasury flat-tax plan, has at the same time called for further tax credits: for private school tuition and for enterprise zones. Both are laudable, but both are completely opposed to the flat-tax concept.

There is another important point about neutrality to the market, one which also speaks to the fairness issue. The flat-taxers have strongly implied that, in contrast to the progressive tax, the uniform proportionate tax is neutral to the market—for the market would pay in this way for the services of government. But would it really? Where on the market is the price of anything proportionate to the income of the customer? I pay approximately one dollar a loaf for

Wonder Bread; if and when David Rockefeller goes to the market to buy a loaf of Wonder Bread, is he forced to pay one million dollars a loaf—or whatever the proportion would be for our respective annual incomes? One of the great things about the market is that every good or service tends to be at one price: regardless of the race, creed, personality, or income of the customer.

The Argument From Simplicity

Perhaps the most seductive argument of the flat-taxers is the argument from simplicity: that, in contrast to the maddening complexity of today's tax code, a code that even the IRS itself cannot fully understand, the flat tax would be simplicity itself. Everyone, they promise, would be able to make out their income tax "on a postcard."

But in the first place, it wouldn't be that simple. We would still need a complex process to determine what our net, taxable income might be. Those of us who are self-employed would still have to figure out our expenses and net incomes. But let us set that aside. What the flat-taxers don't seem to realize is that there are worse things in the world than complexity. And one of them is paying higher taxes. In short, they don't seem to understand some of the reasons for all the tax complexity.

The reason is that many people are willing to wade through a great deal of complexity in order to lower their tax burden. So that, in a sense, given the tax system, much of the complexity that everyone denounces is voluntary. In fact, if we desire simplicity, we can achieve it right now, and without the flat tax. Two-thirds of Americans do so now by filling out the simple short form for their taxes. The one-third of us who choose the wearying long-form route do it for one reason alone: to lower our tax bills. Why in the name of simplicity, are the flat-taxers trying to take this choice away from us? Let them keep their gift of simplicity to themselves, thank you.

One variant of the simplicity argument proved so alluring to a friend of mine that he was almost persuaded by the flat-taxers: the promise that the flat tax would get rid of what are apparently one of the most disliked groups in our society: tax lawyers and accountants.

Apart from the fact that the flat tax would still require a lot of cogitating over net income, let me be one of the few Americans to put in a good word for this much vilified and beleaguered group.

Denouncing tax lawyers and accountants is like blaming doctors for the existence of disease, or attacking expenditures on guards, locks, and fences for protecting oneself against crime. Our complaint should not be with tax lawyers and accountants, but with the system that makes them necessary. So long as that system exists, we must realize that they are our shield and our buckler, our defense against the depredations of the tax system.

Revenue-Neutral?

It is now time for us to relax the original assumption that I granted the flat-taxers: that their plan would be and remain revenue-neutral. Even if the flat tax would not raise total revenue immediately, who here is naive enough to believe that the government will sit still for long for revenue-neutrality?

The government may be willing to lull us into a false sense of security by promising no increase in total revenue. It doesn't mind cutting tax rates a bit temporarily, for the sake of bringing more revenue sources into its clutches. It is worth a lot to bring previously sheltered hiding places into the grasp of the federal government. I can make that point most dramatically by pointing to the fact that eminent left-liberal economists like Walter Heller champion the flat-tax plan. We might almost point to a picture of Professor Heller, and ask: why is this man smiling? He is smiling because, as he has frankly written, the cut in present tax rates is worth the broadening of the tax base, that is, the bringing of previously exempt income under the grip of federal taxing power.

The Terrible Simplifiers and the "General Interest"

If the flat tax is neither evidently fair not genuinely simple nor neutral to the market, if it is merely a snare and a delusion for more confiscatory taxation, it is easy to understand why politicians and bureaucrats may love the idea. But why the enthusiasm of the intellectuals—the alleged spokesmen for the "public" interest? The answer is that the intellectuals may well have a "special interest" of their own.

Jacob Burckhardt, the great nineteenth-century Swiss historian, referred to many of the intellectuals of his day as "terrible simplifiers." What he meant is that many intellectuals, right, left, or center, are opposed to the messy individuality, the untidy diversity of real life. It is an occupational disease of intellectuals to simplify the reality of people, of other people that is, in order to try to understand them. And so intellectuals like to pigeonhole their subjects—other people—into neat, orderly, and simple categories, and to classify and then deal with them in neat and orderly ways. From that way of thinking is an easy step to classify and then treat people as mere pawns to be pushed around.

To do so, the intellectual turns to the secular arm—that is the enforcement power of government—to do the pushing. Intellectuals, in short, are all too often terrible simplifiers, willing and eager to impose massive and painful losses upon other people for the sake of symmetry, uniformity, flatness, or some other simple and abstract ideal. The nature of the creed, the specific content of the ideal, is not nearly as important as the eagerness to override and bulldoze out of existence the diverse and rumpled reality of individual life. We have, alas, come to know in the twentieth century that totalitarianism can have many faces.

When the Regan plan toward a flat tax was announced last fall, an anonymous White House aide attacked the proposal as one "that looks like a tax system designed by a lot of academics." And a leading New York broker charged that "those guys at Treasury are tax lawyers, assistant professors, or statisticians. They have no understanding of what makes an entrepreneur tick."

Indeed, the main designer of the Regan plan, a former academic, proudly proclaimed his lack of realism. Admitting that the plan was written "in an ivory tower," he declared that "one nice thing you get from the ivory tower, is that you get opinions that tend to be unbiased, that are not affected by special interests, that have the public interest in mind." I hope that we will now begin to treat such arrogant claims with the skepticism they so richly deserve.

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The Uneasy Case for Degressive Taxation: A Critique of Blum and Kalven

We must all be grateful to Professors Walter J. Blum and Harry J. Kalven, Jr. for providing in a brief space a cogent review and critique of the various arguments for progressive taxation, together with an extensive and valuable bibliography of the varying points of view. We must also be grateful to discover a serious monograph that rejects progressive taxation as such, although it does support a form of such tax which the authors label "Depressive." Unfortunately, that is as far as one can go in granting this important article unqualified support. For its argument is shot through with errors and omissions that need to be carefully sifted from its valuable contributions.

A discussion of taxation is perhaps unique in that it involves fundamental problems in economic theory, political philosophy, ethics, and constitutional law. Taxation cannot be, or, at least, has not been presented as a pure economic problem; it has been tangled with problems of justice, politics, etc. In addition to its involvement in several social science and philosophic fields, it is by its nature a highly controversial field, especially when an author pronounces a value judgment on the type of tax which should or should not be

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This is an unpublished manuscript from the Rothbard papers, written in 1952 for the Volker Fund. In a letter to the Volker Fund's Herbert C. Cournuelle, on August 18, 1952, Rothbard gave his reasons for writing about the Blum and Kalven essay: "[I]t is certainly an important one. . . . However, it is decidedly an article of mixed quality, containing many errors and significant omissions. Because of this, I am at present engaged in writing a detailed critique of the article." The article is Walter J. Blum and Harry J. Kalven, Jr., "The Uneasy Case for Progressive Taxation," *University of Chicago Law Review* 19 (1952): 417–520.

levied. The entire existence and power of the State is wrapped up in the taxation question. It is therefore likely that any article in the field of taxation, especially when its facets have been traditionally treated fallaciously, is bound to be susceptible to numerous errors and pernicious judgments. This article is no exception, and its importance requires it to be measured in detail against the yardsticks of sound economic theory and individualist political philosophy, both of which are involved in the subject of taxation. Since the authors advocate a system of "Depressive income taxation" (proportional income taxes above the minimum subsistence level), they leave themselves open to criticism in both areas.

First, in their discussion of progression the authors fail to consider any other tax than the income tax. The authors recognize that income is not the only base for tax rates: saying "either capital or expenditure could be used." And then they simply and dogmatically state: "The income base, however, appears to offer the best framework for analysis of the case for progression" (p. 419). On expenditures there is only a footnote declaring that a progressive tax on the consumption of milk would be "regressive as measured by income or wealth." Presumably this is enough to damn all further consideration of a spending tax. Indeed, on the same page, the authors make the usual arrogant assumption that "no one" could possibly favor a regressive tax structure.

> The rate of tax . . . may be graduated downward with income and thus be regressive; under this pattern a man with ten times the income of another would pay something less than ten times the tax. It is so clear no one today favors any tax because it is regressive. . . . A regressive tax on income is not a serious alternative.

This casual dismissal of regression is one of the major defects of the entire article. After brusquely dismissing regression, the authors quickly go on to another pernicious assumption: "It is almost unanimously agreed that some exemption keyed to at least a minimum subsistence standard of living is desirable." Again a spurious unanimity is invoked as a means of avoiding reasoned discussion. Such an exemption is by no means obvious; in fact, it is difficult to justify such an exemption at all. Why should the able be especially penalized, and the less able especially privileged? Suppose further the minimum subsistence level is $2,000, and the proportionate tax above the minimum is 20 percent. A man who makes $2,000 a year would pay no tax at all, while a man who makes $2,500 would pay $100. If we grant for the moment that governmental activities are worthwhile, then it is difficult to see why a man slightly above the minimum should subsidize government activities for a man slightly below the minimum.

Blum and Kalven admit that their proposed "Depressive tax" (proportionate income tax above a minimum subsistence exemption) is in reality a form of progressive tax. Despite their attempts to distinguish between the two forms, and despite the lesser severity of this tax, the fact remains that Blum and Kalven's arguments against progressive taxation only result in their own advocacy of a form of progressive taxation.

A further result of minimum exemption—admitted by the authors—is that a tax-earner with a large family pays less than one with a small family—since the subsistence exemption is larger for the former. Under what principles of justice must bachelors pay to subsidize someone else's prolific breeding?[1] This injustice is part of the larger issue—that any compulsory tax of a more able group to support a less able and more "needy" group is pure highway robbery. It is highly significant that, in an article which devotes much attention to "justice," the robbery aspect of progressive taxation is only barely mentioned, and then in a very unsatisfactory fashion (see below). In the first part of the article dealing with objections to progressive taxation, this key issue is not discussed at all.

There is of course a further objection, which will be treated below, that there is no possible way of setting a "minimum subsistence level" except purely arbitrarily, and that setting exemptions at some other level, as the authors admit, merely brings the system right back to unadulterated progressivism.

With this inauspicious beginning, the authors set out to examine the arguments against progressive income taxation. They begin with the constitutional argument. Here the sound constitutional objections

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[1]Such a subsidy aggravates its own problem, and becomes self-cumulative, by encouraging larger families among the poor.

to a progressive income tax are rudely brushed aside. As in other cases, the authors' review of the history of the subject is useful and interesting, but the position that they uphold is the wrong one. They sneer at the great Pollock decision of 1895, that the income tax is a direct tax. Of even greater importance is the great argument of Justice Field, which they quote, that any progressive or Depressive income tax law violates the constitutional clause requiring uniformity of tax and also violates the Fifth Amendment's due process clause. The authors recognize that the adoption of the Sixteenth Amendment by no means disposed of the constitutional issue, since this amendment did not supersede the uniformity or due-process clauses. They recognize the enormous ignorance of Chief Justice White's Brushaber decision in 1915, which validated the income tax law on erroneous grounds, and which has never been added to or challenged thereafter. Yet, despite this, and despite Hackett's brilliant arguments attacking the constitutionality of progressive or Depressive taxation, the authors simply conclude in one of their offhand statements: "the result seems clearly sound on constitutional grounds" (p. 427).[2]

Blum and Kalven next launch the body of their article devoted (a) to general objections to progressive taxation, and (b) to the arguments in its favor.

In the objections to progression, they fail to mention one of the fundamental ones—that it is unjust highway robbery, especially flagrant since they deal with questions of justice in the course of the discussion.

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[2]This section gives interesting legal references for and against the constitutionality of progressive taxation, such as the Hackett article. They summarize the arguments on state progressive inheritance taxes, without taking sides, but it is clear to this writer that Justice Brewer's dissents on the basis of uniformity and violation of the Fourteenth Amendment, destroying all progressive taxes, were magnificent. The majority decisions by Justice McKenna and Chief Justice White are clearly sheer sophistry. We shall also be interested to read what the authors call one of the most bitter attacks ever made against progressive taxation—the article by David Ames Wells in the 1880 *North American Review*.

The first objection they consider is administrative complications. The authors endorse this objection, and there is little to add to their discussion.

The second objection considered is the basic one that under it a majority can use their ballot power to confiscate the income of a minority, a power limitless under progressive taxation. Blum and Kalven brusquely dismiss this valid objection by merely saying that "majority rule . . . is superior to any other principle for resolving group decisions." And not to agree with this preference for majority rule "is to reject democratic self-government." This is simply a sneer. In the formal sense, all government rests on majority consent. However, to protect the rights of the individual, general and prior majority consent to a rigid constitution that severely limits the powers of government is a far better guarantee than constant reliance on the good sense and discretion of the elected "people's representatives." If this is antidemocratic, so much the worse for "democracy." In a footnote, Blum and Kalven make their argument absurd in their attack on the antiprogressive argument of W.D. Guthrie, by asserting that Guthrie's fears of confiscation "have not been realized in practice" and that these are "fanciful dangers." Their argument consists of an extended quote from Seligman: it is perhaps excusable for Seligman to have made these remarks in 1909, but for Blum and Kalven to rely upon them in 1952 flies in the face of the confiscation ruling in the world today.

Their hopeful citing of the Knutson tax reduction of the Eightieth Congress as an example of the majority's ruling reducing taxes clearly backfires; this "reduction" was a piddling one, and was quickly reversed. The fact that the authors favor restrictions on the majority in the area of free speech and religion makes incomprehensible their accusations of "antidemocratic" against those who wish to place further necessary restrictions on government.

The third objection to which they turn is a crucial one—that the progressive income tax destroys the capital structure and the standard of living of society. Here, Blum and Kalven do a truly abysmal job. They claim that the effect is really "in the realm of conjecture in psychology," and attempt to use the fact that low taxes are better than high taxes to absolve progressive taxation from the guilt involved. They soft-pedal the effect of progressive taxation on incentives to work with the canard that money only really matters "as a symbol of prestige or success," and that, therefore "Progression does not impair this incentive since the highest income is still the highest income both before and after taxes however high the marginal rate of tax." They quote with approval the ridiculous assertion of Simons that "our captains of industry are mainly engaged, not in making a living, but in playing a great game." Furthermore, they even give credence to the notion that the higher the tax rate, the greater the incentive to work in order to maintain the "net position after taxes."

On the effect of progression on capital formation—a key consideration—they are equally unsatisfactory, backing and filling between the different positions. At one point they will recognize the destructive effect on capital, and a few paragraphs later, they vitiate with doubts, uncertainties, and such inane remarks as the following: "And it may well be that a sufficient group in the society will be disposed to gamble whatever the odds"; "It cannot be taken for granted that the discouragement of the most risky enterprises is, at our present level of technological development, an unqualified evil"; and "It seems equally plausible that the lower effective rates (of return on savings due to a progressive tax) will induce some persons to consume less now and to save and invest more in order to maintain their incomes after taxes at desired levels in the future."

Blum and Kalven conclude by deciding that the effects on capital and work are merely "highly indeterminate." They go on to insist that even if the effects are to destroy capital, "it would take an extremely drastic rate of progression and very high taxes to endanger the existing accumulation of capital," as if the present rates are not drastic! And if it merely restricts further growth of capital, after all, "at some point it is reasonable to question the wisdom of society in always continuing to postpone present consumption for the sake of greater consumption tomorrow." They deprecate the objections to progression on these grounds offered by Lutz and Jundson, and cite favorably such absurd arguments as Simons's that the "cost of our present stock of productive instruments was . . . decades and centuries of terrible poverty for the masses," and Edgeworth-Pigou's that enforced equality really "increases productivity" because of the "improved morale" of the poor, etc., etc.

Blum and Kalven conclude this most unsatisfactory section (pp. 437–44) by asserting that productivity, even if it were clearly injured by progression, is not overriding, because a tax system promoting savings would be "a regressive tax system" which they blithely consider unjust without further discussion. It is interesting to note here that Blum and Kalven add a footnote dealing with Beale's (and Fisher's) suggestion of a progressive spendings tax as a way of keeping progression without impairing capital.

Instead of coming to grips with this issue, they merely dismiss the spendings tax (even a progressive one) by saying: "Such a tax would inevitably be somewhat regressive at the higher levels of the income scale."

The net effect of Blum and Kalven's backing and filling on this issue is to dismiss this objection to progression. They conclude this part of the discussion with a quotation from Simons. They cite this quotation with approval, but it is so bad that it deserves quoting at length:

> If we deliberately limit the degree of progression, out of regard for effects on accumulation [of capital], we are in effect removing taxes from those who consume too much and transferring them to classes which admittedly consume too little; and against the additional capital resources thus painfully acquired are mortgages, property rights, in the hands of those freed from tax. While the saving will really have been done by those at the bottom of the income scale [presumably because they have abandoned progression for proportionate taxation], those free from tax and their assigns will enjoy the reward. This method of fostering increase in productive capacity thus increases the concentration of property and aggravates inequality. . . . [T]he scheme looks a bit like taxing small incomes to reduce consumption in the hope that those relieved of tax will save more after consuming all they can, and then allowing 1 per cent to those who have really done the saving and 4 per cent to those who have served merely by paying smaller taxes.

It is not surprising that the authors conclude by stating that the objections to progression are "far from conclusive."

Having begun the article by basing their discussion on several fallacious assumptions, Blum and Kalven treat the case against progressive income taxation in a manner which ranges from omission of important elements to confused backing and filling to outright acceptance of fallacious and antifreemarket arguments. The valuable parts of the article so far (some biographical references, historical sections, and treatments of administrative confusion due to the tax) have been so brief as to be overshadowed by errors.

Blum and Kalven next turn to the major part of their article: a critique of the arguments for progressive income taxation. They turn first to the argument that this type of tax helps maintain a high, stable level of economic activity. One such approach is that of Mints-Friedman-Simons, who hail the fluctuations in income tax receipts with changes in economic activity. A progressive tax increases the effective tax rate under inflationary conditions and reduces it in a depression. Blum and Kalven unfortunately agree that "there is now general agreement that it is altogether appropriate for the government deliberately to operate with an unbalanced budget whenever significant inflation or deflation is taking place"; that is, to have a surplus in a boom and a deficit in a depression. Blum and Kalven obviously support this fallacious point of view, but are inconclusive on this argument, inferring that the progressive features of the income tax law does not add so much to this feature that it cannot be eliminated.

The second such approach is the Keynes-Hansen mature-economy approach, which supports progressive taxation in order to boost consumption as compared to savings. Their critique of this approach is rather weak; they do not point out that depressions are never caused by "under-consumption," and therefore cannot be relieved by such measures—quite the contrary. Their main argument is that stagnation does not exist so that such a remedy need not be adopted. Finally, they advocate, to counteract temporary depressions, lowering taxes uniformly while maintaining government expenditures. Thus although some of their criticism of the Keynes-Hansen position is valid and useful, it is unfortunately weakened by various concessions.

Having thus disposed, though not very decisively, of the stability case, the authors turn to the taxation arguments based on justice. There are three criteria or principles to use as bases for levying taxes: benefit received, costs incurred, and ability to pay.

They first turn to the benefit principle—that people should pay taxes to government in accordance with the benefits they receive from government. The benefit principle is not a wholly satisfactory one, but it has much merit, especially as compared to the "ability-to-pay" doctrine. According to this theory, for example, the users of roads are taxed on their gasoline purchases in order to pay for the upkeep of roads. The authors seem to favor benefit taxation in many cases, such as these, where the benefits may easily be traced. In such cases, however, it is difficult to understand why (assuming the government should operate them at all) these services should not be priced and have their expenses paid solely by their customers. Thus, the users of the post office should be the ones to pay for the service, the users of parks to pay for the parks, etc.

Blum and Kalven next proceed to those expenditures where benefits allegedly cannot be definitely traced. Here they are at their best in destroying the fallacy that benefits to property owners increase either proportionately or progressively with the value of property protected (pp. 452–53). This "benefit" argument for progressive (or proportionate) income taxation rests on the fallacious "tax as insurance-premium analogy." They point out that such property-protecting outfits as police, army, and fire fighting, do not benefit the owners of property according to its value, and indicate particularly that owners of intangible property benefit far less than owners of real estate. Furthermore, they agree that the services of government in defense of persons is alike for all individuals, and add that the amount of police and army necessary to protect persons are probably adequate to protect property as well.

Yet, inconsistently, Blum and Kalven approve of Mill's attack on a proposal for equal poll tax on all persons and a proportionate tax on property, which stated: "it is not admissible that the protection of persons and that of property are the sole purposes of government. The ends of government are as comprehensible as those of the social union"—the authors add that mere protection is "only a small fraction of the total services performed by government" in a "modern state." But this is just the point. Individualists believe that this is the maximum of service that the government should bestow—that this is the only field where government is competent to perform service, and the only field in which justice permits the government to be active. By adopting Mill's vague statist criterion instead, they abandon individualism, and they abandon the only field in which government—the organization of force—is competent; instead they adopt the philosophy of collectivism.

Blum and Kalven dispose of the very useful "cost principle" in a footnote: "sometimes the theory is stated in terms of the cost of the government services performed for each citizen rather than in terms of the *benefits* received from such services." The authors' only comment is, "This refinement may avoid the need of measuring subjective benefits, but it does little else for the theory." This is their sole comment on the *cost principle*. Yet the cost principle is very different and far superior to the benefit principle. In the first place, it is a great advantage that it does not have to measure subjective "benefits." Benefits are purely subjective, and can never be measured, and the fact that some of the best parts of this article are devoted to criticizing "equal sacrifice of utility" theory precisely on this ground makes it even stranger that the authors did not examine the cost theory in more detail. Indeed the impossibility of measuring benefits is also a strong argument against the spendings tax mentioned above, since money-expenditures are not a criterion of psychic benefits.

The cost principle levies the tax on the most accurate estimate of cost of the operation to the government. Services such as the post office, for instance, would be priced on the cost principle, although individualism would eliminate these wasteful, monopolized services entirely. The police-army services of defense of person and property would obtain its revenue (a) from fines on wrongdoers, and (b) from taxes according to cost levied as equal poll taxes on each person under protection; and approximately proportionate to acreage on real property policed. All services on the free market are priced according to marginal utility (which, in turn, sets costs); if it is just for *all* consumers, regardless of wealth or income, to pay *one price* on the market for all these services—food, autos, etc.—why is it not just for all receivers of government protection to pay equally for the same service? Since there is no free market for protection service, a tax levied on the basis of cost is the best approximation to the free-market ideal of one good, one price.

Furthermore, the benefit principle has the unjust feature that those who benefit more must pay more; why should a man be punished because he is happier? The cost principle—based on equal price for equal service—avoids this problem.

In the course of their keen analysis of the benefit principle, the authors successfully attack all phases of the benefit arguments for proportion and progression. As a matter of fact, they point out, with Mill, that the poor and the unpropertied probably benefit more heavily from government police protection than the rich, who could pay for their own private protection. "If there were any justice, therefore, in [the benefit principle] . . . those who are least capable of helping or defending themselves, being those to whom the protection of government is the most indispensable, ought to pay the greatest share of the price." Thus, under the benefit principle, a poor man would be taxed more heavily than the rich. The cost principle is not open to this objection— since it taxes absolutely equally for any service rendered, regardless of the subjective benefits rendered to each of the consumers.

Blum and Kalven add with horror that the benefit principle would require the specially privileged "underprivileged" who receive welfare subsidies from the government to be precisely the ones to be taxed for their payment. On the contrary, here is one case where the rigorous application of the benefit principle would quickly end agitation for these statist schemes.

Thus, Blum and Kalven retain the benefit principle only where benefits are directly traceable, and the benefits are not "a consequence of deliberate welfare measures." On the contrary, the benefit principle should be retained only in cases of "welfare measures" and all other subsidies to specially privileged groups.

The authors' section on the benefit principle thus contains much keen analysis, but is vitiated by concessions to collectivist and "welfare" philosophy and neglect of the cost principle.

Blum and Kalven next proceed to the "equal sacrifice" criterion of taxation. They make the interesting assertion that this approach treats taxes as though they were a confiscation of property, and "the problem then becomes one of confiscating in an equitable manner." Since this approach toward taxation is quite realistic, it is unfortunate that Blum and Kalven did not raise the obvious question at this point: Why assume that there can be such a thing as "confiscation in an equitable manner"? If taxation confers no benefit, why tolerate taxation at all?

It is clear that this assumption places the entire "equal sacrifice" theory in a highly curious position, and although Blum and Kalven do not pursue this position, it is one of their great contributions that they highlight the fact that "sacrifice theory"—which has loomed the largest by far in all discussions of taxation—rests basically on this taxation-as-harm assumption. As they put it, "An equitable apportioning of sacrifice requires inflicting equal hurt on each taxpayer." To a thoroughgoing individualist and libertarian, this basic goal of the sacrifice theorists reveals the utter absurdity of their position. Instead of worrying about what constitutes "equal hurt," why inflict any hurt at all? Why tolerate an institution that represents only pain and injury, and then try to find some sort of "equitable means" of spreading it around? The entire concept of "just and equal" in suffering is an absurdity.

Setting aside this point for the moment, we return to Blum and Kalven, who proceed on a lengthy and generally very valuable analysis of the various attempts at measuring "equal sacrifice." This is generally an excellent section and provides valuable analysis and bibliography of the different points of view. This is probably their outstanding contribution.

They analyze the "utility curve" of money and its components, and clarify the different contentions. Best of all, their final devastating attack on the whole "utility of money" analysis as a basis for taxation rests on the Mises-Robbins contention that utility cannot be measured, and therefore cannot be compared between one person and another. They recognize that utility is an ordinal concept, and that therefore "the whole elaborate analysis of progression in terms of sacrifice (disutility) and utility doctrine finally collapses." (It is unfortunate that this conclusion is marred slightly by an absurd footnote quotation from Pigou attempting to deny this.) They point out that the analysis rests on an attempt to measure utility and disutility by the amount of money income, and to compare diminishing marginal utility of money between persons.

Their main error in the course of this sacrifice analysis is their preference for the "proportionate sacrifice" standard over the "equal sacrifice" standard, although it is one of their great merits that they have brought the distinction between the two concepts into clear focus. They prefer the former (although finally discarding both) because the latter is "regressive" in income taxation, although most economists have preferred the equal-sacrifice principle. If we assume for the sake of argument that utility can be measured in units, and compared between persons, the equal-sacrifice formula states that each individual should give up an equal *percentage* of his total utility derived from money. It should be clear to all that the former is more just; at least it preserves some sort of equality before the law that is a requisite of individualism. The proportionate criterion is the reverse of justice; why should one man sacrifice more units of utility just because the market has made him richer than the next man? This is clearly unjust discrimination and confiscation of the rich. Yet, Blum and Kalven reject the equal-sacrifice principle because it is regressive; a man with $10,000 income would pay more than a man with a $5,000 income but *less* than twice as much. This is all part and parcel of the authors' continual preference for proportionate taxation and horror of equal taxation or "regression."

In the course of this discussion, Blum and Kalven advance their only argument for the proportionate formula in general—that it is "neutral" as compared to the distribution on the market; all people are equally worse off as a result of the tax. And they indicate on page 461 that their rejection of proportionate sacrifice on grounds of immeasurability of utility leaves them with proportionate income taxation on grounds of its "neutrality." The question arises: Is a proportionate income tax best because it is neutral with respect to the market?

At first blush, this argument is superficially appealing. If a tax of 10 percent is levied on all incomes, is not the market distribution left untouched? Each has 10 percent less income after taxes than before. This argument, however misinterprets the nature of the market and "neutrality" toward it. The question should be: How are all prices of goods set on the market? They are set on the basis of one price for each good, *regardless* of the incomes of the people on the market. A pound of butter costs the same to a poor man as to a rich man. Yet this one-price system is considered just, especially by writers like Blum and Kalven who claim to support the market process. It would be considered unjust, and rightly so, if the rich were penalized for their wealth by being forced to pay more for every service than a poor man. Equal price for equal service—discrimination against neither rich nor poor—is the rule on the market. Therefore, if it is the rule of justice to be neutral with regard to the market, then taxing will take place as nearly as possible on a *market basis*; it too would *tax each person equally*. If the government taxes the rich more heavily—in amount, not in "proportion"—than the poor, it is not being neutral; it is introducing a principle of charging, which is foreign to the market.

There are several gems of analysis contained within Blum and Kalven's critique of sacrifice theory. There is the "customary sacrifice" contention of the Stamp which highlights the impossibility of measuring subjective sacrifice; and there is the greater chance of going wrong under progression; there is excellent critique of the Pigou argument for progression based on conspicuous consumption. The authors demonstrate that this Veblenian evil is likely to be more widespread among the middle classes than among the "rich."

A third type of sacrifice theory which the authors analyze is the "minimum social sacrifice" theory of Bentham and others. This assumes some sort of "maximum quantity of social satisfaction," and, of course, makes the same error in assuming measurability of interpersonal satisfaction. The minimum social sacrifice doctrine is, of course, completely vicious—it disposes of all equality before the law or neutrality concepts—and demands what amounts to outright leveling of incomes and confiscation of higher income groups and subsidizing of lower income groups. Aside from considerations of justice or productivity, the fundamental criticism is that sacrifice cannot be measured between persons by simply comparing income. Furthermore, the utilitarian principle of minimum sacrifice assumes that it is the state's function to allocate happiness between persons, which would be vicious even if it could be accomplished. The authors rightly footnote Simons's remark that on the minimum-sacrifice doctrine, those with a greater capacity for pleasure would be taxed less than others—a curious doctrine to say the least. The authors' rejection of the formula, however, is not as strong as it might have been. They concede too much to its being a "variant formulation of the question for the common good or the common welfare."

In the general argument against a measurable diminishing utility of money, the authors are wrong in indicating that the utility of money does not really diminish. It does diminish as the stock increases, but the crucial point is that this decrease cannot be measured, and here the authors are correct.

After disposing of the sacrifice theories, the authors turn to the next principle of taxation, the "ability to pay." They point out correctly that, in general, the term "ability" is simply the converse of the sacrifice doctrine, *the ability to bear a sacrifice*, which also cannot be measured. Again, however, their treatment is marred by an acceptance of proportionate income taxation as being properly commensurate with ability to pay. The authors fail to proceed further to a critique of the ability-to-pay principle itself. This "principle" is simply that of the highway robber, who takes as much as he can. It is a curious form of "justice" for the state to pursue in taxation.

Blum and Kalven are at their best in an excellent critique of the Seligman argument for progressive taxation, based on the absurd theory of "faculty" of earning money. They also have a fine critique of Hobson's proposal to tax "surplus" economic rent, and of Peck's peculiar plan to tax consumer surplus.

The authors next have a fine critique of the "moral consumption" ideas involved in arguments for progression.

Finally, Blum and Kalven turn to consider the argument that progressive taxation is good simply because it brings about greater economic equality; this is the Henry Simons position. If egalitarianism should be pursued as a policy, progressive taxation is one way of achieving the goal. The authors assert that if Henry Simons rests his case simply on a value judgment that equality is good and is an ultimate one, there can be no further discussion. They fail to recognize that the infinite variety and inequality of talents among human beings makes the goal of egalitarianism absurd and antihuman, better suited to an ant-heap than to human society.

In treating the socialist-communist arguments for progression, it was not necessary for Blum and Kalven to levy an implicit insult on Lutz and Crotty for maintaining that advocates of progressive income taxation are unwitting collaborators of socialists and communists. This charge may not be pleasant, but it is true, and it is out of order for the authors to call this "the rhetorical possibilities of guilt by association" (p. 489).

Passing over the socialist and the Simons position, the authors ably point out that the case for equality rests at bottom on sheer envy, is certainly a gross injustice as a foundation for political policy, and state that envy can certainly not be eliminated even by enforced equality.

Blum and Kalven then keenly examine the "general welfare" argument for progressive taxation. They point out brilliantly that (a) welfare can no more be measured than utility or sacrifice, and that (b) even if it were, such taxation would benefit one group at the expense of another, and that, therefore the welfare considered *not* general, but special. The authors also point out the difficulty that the egalitarians have with the government—shall the confiscated money be spent by the poor or by the government? Increase in government expenditure may be highly undesirable and lead to a loss in consumer freedom.

The authors next have an excellent critique of the "democratic" argument for equality. This is the Tawney-Lasswell contention that democracy cannot work well if incomes are too unequal, and equality will ensure against revolution. Against this familiar theme song, the authors set Edgeworth's observation, that there may be more danger in whetting the appetite of the poor and thus precipitating revolution, aside their own contention that the money route to political power is far better than status-routes dependent on heredity, caste, and military prestige. Here the authors rely also on some apt statements by Wright. They also dispose rapidly of the inane "money power" and "private sovereignty" arguments against the rich.

Finally, the authors dispose in admirable fashion of the "moral reform" argument for equality, based on the "sense of fellowship" that would ensue. Rivalry would only be shifted to other, more unpleasant areas. The argument could be much stronger here, however; money differences in the ultimate analysis are the main thing that binds man in a sense of fellowship rather than the reverse. These money differences arise from the peaceful cooperation of the market, and it is only as a result of such peaceful cooperation, as Mises has brilliantly pointed out, that any sense of fellowship can emerge. The authors are to be commended for their footnote by Sharp that a sense of fellowship through equality can be highly dangerous and lead to rule by dictators and mobs.

Blum and Kalven conclude by denying that economic inequality is in itself a good, and assert that past arguments that a wealthy group is needed to be the culture bearers of society are now outmoded by universal education. We must differ strongly; universal education has in fact led to a general degradation of cultural and educational standards. It is still true that only a small elite are culture-carriers; although the spread of universal education has made this elite harder to distinguish and to discover. This elite is certainly not identifiable with the wealthy; but it is still true that the wealthy are far more likely to recognize and patronize the elite than are the masses.

Having disposed of the case for economic equality, the authors return to the other side of the coin—the question of whether or not the market's income distribution is a just one. If it is, then the perniciousness of attacking the unequal distribution of income resulting from the market is evident.

The authors first ably point out that even if there is undeserved income on the market due to monopoly and fraud, there is no correlation of *undeserved* income and *total* income and therefore no case for progression. The authors err seriously, however, in (a) attributing monopoly to the market—undeserved monopoly income is attributable to state deviations from the market; (b) treating fraud and duress as part of the market—these too are antimarket phenomena and are illegal; (c) treating shifts in the value of money as causing unjust income rewards—this is only another market phenomenon and no more unjust than any other change; and (d) treating luck as leading to "undeserved income." In the first place, luck cannot be legislated, and second, it is usually the able and enterprising that can take advantage of the luck that comes their way. Each person is equally liable to be confronted with good or bad "luck."

Having disposed of the unjust reward argument, Blum and Kalven do a very fine job in probing further the arguments of the anti-inequality writers. They show that some really base their position on abandonment of all personal responsibility. In this amoral and monstrous view, the able are not to be rewarded because they are not responsible for their talents, and the criminal not to be punished for the same reason. Upheld consistently, this view is antihuman and anti-individualist in the deepest sense. Blum and Kalven do well to attack this deep-seated modern doctrine.

Also, they show that it is nonsense to use the fact that modern production requires division of labor and cooperation to say that therefore no one's rewards can be separated from another's. The authors point out rightly that this separation is precisely what the pricing process accomplishes.

In their final argument, Blum and Kalven consider the argument that the market, in dispensing monetary rewards, does not rate "the whole man," and that perhaps the state should redress the balance. Here, the authors are curiously inarticulate. They merely state that this argument is rarely formulated. They admit in a footnote that the market is not the only rewarder in society, that, for example, there are nonmonetary markets such as friendship in exchange for praiseworthy qualities, which appraise these other qualities with which the market is not concerned. Yet they seem to favor this argument by implying that the progressive tax provides a useful method for society to review and change the market's distribution of income. The market's rewards are monetary for contributions that can be appraised in terms of money; what justification is there for the state to alter this monetary pattern? If market monetary rewards are just, as Blum and Kalven admit, the contention that they still should be "reviewed" through progressive taxation is an absurd one. Yet, nonmonetary contributions continue to be rewarded in nonmonetary ways.

Thus, Blum and Kalven began their article unfortunately. Each of their basic assumptions was fallacious, and their treatment of the arguments against progression unsatisfactory. However, we have seen that the great value of their article lies in most of their critique of the arguments for progression—particularly, the sacrifice, ability, and equality arguments. Much of their analysis in this part is of a high order. The merits lie, however, not in any arguments for "degression" but in the arguments against progression.

It is unfortunate that, after concluding the critique of arguments for progressive taxation, the authors should slip back into much fallacious argument in their discussion of "equality of opportunity" and inheritance.

They first make the flat statement that rewards cannot be considered just "unless the contestants start from the same mark," and they continue with a quotation from Tawney that the "game" is not fair "if the rules of a game give a permanent advantage to some of the players." Also, equal opportunity will develop individual talents best.

This position completely misconstrues the nature of the market and of society generally. Blum-Kalven-Tawney err in considering human life and action some sort of "race" or "game," where each should start in an identical position. Life is not a race, but an attempt by each individual to be as happy as possible. Since the world has not just come into being, it is absurd to decree that everyone should "start" the same. Each individual's "reward" for his industry, foresight, and saving consists of property which it is his right to dispose of as he sees fit. This disposal includes, certainly foremost, the right to accumulate and give to his children. It is an absurd and pernicious doctrine of "justice" that each child should "start" absolutely equally. It is an anti-human position, since each child manifestly begins completely unequally—with unequal abilities and parents. If parents have a right to beget and raise children without state interference, then parents have a concomitant right to provide that environment, and that amount of money for them, that they think best. To provide "equality of opportunity" in the sense of equality of infants would have to mean that the state nationalizes all infants and raises them in State nurseries under precisely "equal" conditions (although, even here, absolute equality is not possible). If private raising of children is admitted, then private inheritance must also be fully admitted.

Blum and Kalven penetrate to the issue by stating that the "important inequalities of environment, in its broadest sense, are for the children." They proceed to endorse inheritance taxes, and go on to restate the old canard: "Today few dispute the force of the equalitarian case in this context." As one of these "few," we reiterate that if freedom for the private family is accepted and the horror of communication of children squarely rejected, there is no case whatsoever for inheritance taxation or "equality of opportunity" in this field. Blum and Kalven do not improve matters much by conceding that this "strong" argument for progressive inheritance taxation must be "counterbalanced" by considering the impairment of incentives to work and disruption of the family standard of living.

The authors merely conclude that the case for progressive inheritance taxation is pretty well established, but not progressive income taxation, and bolster themselves by citing a "tradition" for this program (Hill). On the contrary, a progressive inheritance tax is far worse than progressive income tax. As the authors skim over without pointing out its significance—the inheritance tax is a *pure tax on capital*. It does not tax income at all. It is a pure tax on accumulated capital, and thus leads directly to impoverishment. Not only that, but it is a pure tax on that very form of endeavor that provides the main incentive for long-range accumulation of capital after a man's death—the bequest to one's children. It is therefore a staggering tax on capital. Not only should there be no progressive inheritance tax, there should be no inheritance tax at all. An inheritance tax is pure evil, and no valid arguments can be found for it.

The authors err fundamentally in believing that inheritance leads to a "permanent" handicapping, or inequality of the "rules." Inheritance of wealth is not permanent at all. In contrast to inheritance of status—aristocratic, military, bureaucratic, or political—inheritance on the market is precisely always in danger of being dissipated if the heirs are not careful. Every inheritor must continue to invest profitably not only to increase his wealth, but to maintain it. George Washington was one of the wealthiest men in the America of his day. A few generations later, the Washington family disappeared from the scene.

But for Blum and Kalven an inheritance tax (progressive) is not enough in reducing "inequality of opportunity." For before inheriting the money, the children receive the benefit of parental expenditure on them. Here is a critical loophole indeed. As the authors put it:

> The critical economic inheritance consists of the day-to-day expenditures on the children; it is these expenditures which add up to money investments in the children's health, education and welfare which in the aggregate are . . . gravely disparate.

There is a hint in a footnote that the authors would endorse a system whereby children would be taxed (in practice, of course, the parents) for the "income" (in goods) received from the parents, or the parents would suffer a stiff gift tax on all expenditures made for their children.

Fortunately, however, Blum and Kalven stop this process of reasoning in time to see where it leads. They (inconsistently) begin to draw back from the prospect of steeply progressive income taxes in order to equalize expenditures on children. They seem to look with favor on equalizing opportunities for "formal education, healthful diet, and medical attention" (p. 504), presumably by having the government nationalize these services and providing them equally. There still remain inequalities of cultural education and psychological training that seem unavoidable. At least the authors realize that attempting to remove all inequalities by tackling these areas would lead to complete destruction of the private family. As they put it, "this would call into question the very having of children." Yet they do not follow this thought consistently, but only continue to wrestle with the problem in confusion.

Blum and Kalven summarize by declaring, that for adults, enforced equality rests simply on envy, but "in the case of children these difficulties (in the arguments for egalitarianism) largely disappear. There is an enormously strong ethical claim to equality for the sake of children. What may reduce to envy as among adults surely is justice as among children."

Yet the authors are troubled by what will happen to the family and to private property under such a regime. Also, they realize the important point that if the conditions of children are equalized via progressive income taxation of the parents, then the later incomes of these children when grown up will also be subject to leveling, and "they will be denied the opportunity to enjoy the differential rewards which they have earned." In effect we would be first making certain that the conditions for the race are fair and then calling the race off. Precisely, and this should reveal the absurdity of "equalizing opportunity" to begin with. The authors thus conclude this section in a state of confusion.

Blum and Kalven conclude the discussion of equality with two erroneous footnotes. One purports to refute McCulloch's objection to a progressive tax that it renders the rate pattern arbitrary and uncertain. If the argument is on the merits of equality, then the progressive tax resulting, they claim, will simply be the result of "democratic debate." The fact that something is resolved "democratically" does not make it any the less arbitrary or capricious—indeed, it is likely to make it more so—or undo the harmful effects of such capriciousness. "In the end the distrust of progression on grounds of the uncertainty of the equality standard is only a doubt about the wisdom of entrusting the question of economic equality to the democratic process." Once again, we react to the invocation of the god Democracy, by saying "precisely"—let us see this question removed from the area of the democratic process and prohibited to government by constitutional means.

Another error they make is to pooh-pooh the antiprogression argument that complete leveling will really add little, quantitatively, to the income of the mass of people even in the short run (i.e., aside from effects on productivity and capital). It is true that this algebraic argument has been overworked by opponents of progression (it is interesting that this argument is the central one in Bertrand de Jouvenel's recent *Ethics of Redistribution*), but after all it has its place and is not to be dismissed so brusquely. Its "cold mathematics" are *not* irrelevant to the agitation for economic equality—for it reveals some of the absurdity of the agitator's passionate pleas for redistribution. And the authors' contention that the quantitative benefits could really be great by "distributing the benefits in the form of community expenditures rather than cash" is singularly unconvincing, especially in light of their own doubts about state (not "community") expenditures and restrictions on consumer freedom.

Except for a brief concluding section, the remainder of the article deals with the Blum-Kalven case for "Depressive" taxation—exemption up to the "minimum standard of subsistence" and a uniform proportionate rate above that. There is not too much of interest here. They explain that the Depressive tax is progressive, but more mildly so than other types of progression. The outcome of their case is not favorable for degression even on their own grounds. They admit that if the exemption is set above the subsistence level, the progression will be far steeper, and explicitly graduated rates are likely and probable if such criteria as "decent standards of living" are set as the exemption. Their arguments against Depressive taxation at high exemption levels are good, and they also have an interesting argument about the ambiguity of graduated rates in their comparison of the income-classes that are being leveled.

The authors conclude that degression would be worse than graduated progression if the exemption of the exemption level were set at a high level, and that graduation would also be necessary if the exemption level were too low, in order to soften the impact on the poor. Even on their own grounds, therefore, degression is only called for if the exemption level is squarely set at the minimum subsistence level. Yet, it is impossible to set such a level scientifically; any such exemption level would be arbitrary and subject to the further capriciousness of the authors' "democratic process." On the authors' own terms, then, their case for "Depressive taxation" evaporates.

Why have exemption anyway? The authors present their brief position on page 509. One argument is the diseconomy of collecting small amounts of tax from many low incomes—this is totally unconvincing considering the "untapped resources" from the many low incomes. A second argument is the futility of the state's giving welfare benefits and then taxing them away—on the contrary, this is a cogent reason for not permitting exemptions, since this will be likely to end the welfare benefits. A third argument is the alleged "disadvantages of anchoring judgments about tax rates and government expenditures to the capacities of the poorest members of the community" (p. 509). On the contrary, this is a great advantage. A firm anchoring of this sort will ensure a very low level of state taxation and expenditures—precisely what is needed.

Blum and Kalven conclude with a discussion of government expenditures. Where benefits are traceable, though unintended, they advocate taxation of the recipients of the benefit. In discussing expenditures where benefits are not traceable, such as military or other defense expenditures, the authors realize that since we might roughly say that such expenses benefit everyone equally, the benefit principle would lead to *equal taxation*. They recoil with horror from this because it would increase economic inequality, and it "certainly is intolerable to predicate it [a case for increasing economic inequality] on the cost of the indispensable activities of government." But this is completely beside the mark; equal taxation is not a deliberate enforcement of greater inequality, any more than a grocer's charging one price for butter causes "greater inequality" between the rich and poor buyers.

The authors would also pay for welfare expenditures by Depressive taxation. But it would be better to apply the benefit principle strictly, thus quickly ending such expenditures. This aim of reducing such expenditures is not entirely out of place here, since the authors admit that ending progression probably greatly reduces such expenditures.

I have engaged in this lengthy critique because the article is an important one. Professors Blum and Kalven have written one of the few scholarly attacks on the theory of progressive taxation in recent decades. They deserve commendation for their effort and analysis. In general, their article has been found to be strong in critical analysis of progression, but weak and confused in their positive recommendations and erroneous in attacking many anti-progression arguments.