

THE FREEMAN

IDEAS ON LIBERTY

124 The Growth of Government in America

Stephen Moore

The growth of government is the greatest tragedy of the twentieth century.

137 Can Voluntarism Survive the Taxman?

James L. Payne

Taxes are destroying the benevolent activities of the American people.

139 Judging Politicians

Rick White

It is unrealistic, and dangerous, to think we can survive without principles and without elected representatives who believe in those principles.

141 Thomas Jefferson: Liberty and Power

Clarence Carson

This month marks the 250th anniversary of Jefferson's birth.

149 Do State and Local Fiscal Choices Matter?

Stephen E. Lile

A comparison of neighboring states says they do.

151 The Costs of Tax and Spend

John D. McGinnis

Government costs far more than a glance at tax revenues would indicate.

154 Book Reviews

John Attarian reviews *Adventures in Porkland: How Washington Wastes Your Money and Why They Won't Stop* by Brian Kelly; *Grand Theft and Petit Larceny, Property Rights in America* by Mark L. Pollot, reviewed by Grant Thompson; *Official Lies: How Washington Misleads Us* by James T. Bennett and Thomas J. DiLorenzo, reviewed by William H. Peterson; *Patient Power: Solving America's Health Care Crisis* by John C. Goodman and Gerald L. Musgrave, reviewed by Ross Korves; *What Has Government Done to Our Health Care?* by Terree P. Wasley, reviewed by Gerald Musgrave; *We Hold These Truths* by Lawrence Patton McDonald and *The Right Guide: A Guide to Conservative and Right-of-Center Organizations* edited by Wildox, Shackman, and Naas, reviewed by John W. Robbins.

CONTENTS

APRIL

1993

VOL. 43

NO. 4

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533

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The costs of Foundation projects and services are met through donations, which are invited in any amount. Donors of \$25.00 or more receive a subscription to *The Freeman*. Additional copies of single issues of *The Freeman* are \$2.00. For foreign delivery, a donation of \$40.00 a year is suggested to cover mailing costs.

Bound volumes of *The Freeman* are available from The Foundation for calendar years 1972 to date. Earlier volumes as well as current issues are available on microfilm from University Microfilms, 300 North Zeeb Road, Ann Arbor, MI 48106.

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The Revolution That Was America

America is not a place but a revolution. No other country's emergence in human history has ushered in a revolution as did that of the United States of America. The Russian "October" Revolution was nothing much in comparison, a mere changing of one bad regime to another, with different slogans from the old but without much change in substance. That is not how it happened with the American revolution.

Where America has made the biggest difference is in its political and legal constitution—how it was conceived, with what priorities. The central novelty of the American polity was its transfer of sovereignty from the society, community, state, nation, royal family, church, and all kinds of collectivities to the individual human being.

It isn't free enterprise, or even private property, that counts for most in this political vision. It is the individual person's life as a project to embark upon with complete authority—that's what made the difference about America. Indeed, that is what nearly everyone who came to its shores perceived, if only simply or implicitly. Elsewhere the important things were the culture, people, race, religious sect, class, or whatnot. And the individual as an individual didn't much matter.

Not according to the American dream. Sure, that dream has never been fully realized and was sometimes drastically subverted, as with slavery and military conscription, as well as compulsory education and all forms of extortion passing for taxation. But at least there were the words of the Declaration of Independence, the Bill of Rights, the breakthroughs in civil liberties, and a certain measure of freedom of trade. These fixed for millions here and abroad a vision of how a country might be, how its people might interact and embark on various missions either on their own or in voluntary cooperation with any number of their fellows.

An anecdote may help to underscore this point. Once, many years after I became a

citizen of the United States of America, I went back to visit relatives in Europe. Sitting in a rather elegant Viennese restaurant with my mother, I engaged a Yugoslavian waiter—who recently left his homeland so as to seek prosperity abroad—in conversation about America. The chat went well and it was thus something of a shock when upon its conclusion my mother showed clear signs of irritation. She put it this way: “You shouldn’t have chatted away with a mere waiter. It’s embarrassing.”

This was very odd to hear for someone who came to America and lived here knowing that it is never embarrassing to speak to someone simply because of his origin, occupation, race, or sex. Of course, there are exceptions, but in the main the American mind is characterized by a basic kind of individualism, whereby what counts is the person one is, not one’s origins or status. Despite what some left-wing hecklers of America keep shrieking, there is no class structure in this country. For a long time the politically correct thing to do was to think of people as individuals, not as members of some superior or inferior group.

Although the ideal of individual liberty and the ensuing development of an accommodating political order are relatively new in human history, there has not been much progress in the development of either. Reactionary ideas have set in for some time now and have governed most people’s thinking, especially those who air their views in prominent forums—the electronic news media, widely reviewed books, major magazines, and newspapers.

Yet, it is also crucial that just returning to home base and carrying on as before cannot be the answer. The meaning of the right to individual liberty, while fundamentally stable throughout human affairs, needs to be interpreted for innumerable novel human situations. What freedom of speech meant for colonial America is not identical to what it means for the computer era. Private property rights are, essentially, having the final

authority to determine what is to be done with what is one’s own, but owning a saw, a bazooka, an airplane, and an internal combustion engine do not all come to the same thing.

So as we consider the details of how the country may be turned around along lines that once made it the best of all countries in the world—with its flaws clearly being its departure from its own ideals—we cannot expect merely to repeat policies of the past. The polity of liberty needs to be worked out to meet new and different challenges. It needs to have a legal framework that does not stifle progress but adjusts to it.

The polity of liberty is every bit prepared to do so. This depends on no more than that we understand what human nature can achieve as far as political objectives are concerned, and that we are committed to help it along by taking responsibility for our own actions, accepting blame as well as praise for what we do, and not expecting government to live our lives for us.

—TIBOR R. MACHAN

How the Government Plans to “Improve” Your Lab Tests

If the cost of tests done by your medical laboratory has only gone up by 300 percent or more, you’re one of the lucky ones.

Some patients will no longer be able to have lab tests at all, at least not without driving 100 miles.

The reason is the Clinical Laboratory Improvement Act (CLIA) of 1988. As of September 1992, all physicians’ office laboratories are required to be registered with the federal government. And if the laboratory does anything other than the simplest tests, payment of a registration fee is just the beginning. There are paperwork requirements, personnel standards, proficiency testing, more fees, and huge fines for violating any of the Byzantine requirements.

—JANE M. ORIENT, M.D.

THE GROWTH OF GOVERNMENT IN AMERICA

by Stephen Moore

Let us begin with a simple but vitally important proposition: Government in America was never supposed to engage in the multitude of activities that it does today.

When the United States gained its independence more than 200 years ago, the founding fathers envisioned a national government with explicit and restricted responsibilities. These responsibilities pertained mainly to protecting the security of the nation and ensuring “domestic tranquility,” which meant preserving public safety. Especially in the realm of domestic affairs the founders foresaw very limited government interference in the daily lives of its citizens. The founders did not create a Department of Commerce, a Department of Education, or a Department of Housing and Urban Development. This was not an oversight: They simply never imagined that the national government would take an active role in such activities.

The minimal government involvement in the domestic economy would be funded and delivered at the state and local levels. Even that involvement was to be restricted by Congress’ authority over interstate com-

merce, an authority granted to Congress by the founders for the purpose of preventing the state governments from interfering with commerce.

Recognizing the propensity of governments to grow, the people added the Bill of Rights to the Constitution as an additional layer of protection for the rights of individuals against the state. The Bill of Rights was to ensure that government would never grow so large that it could trample on the individual and economic liberties of American citizens. These liberties are eroding. The United States has been gradually transformed from a nation with almost no government presence in the marketplace to one in which the government is now the predominant actor in the domestic economy.

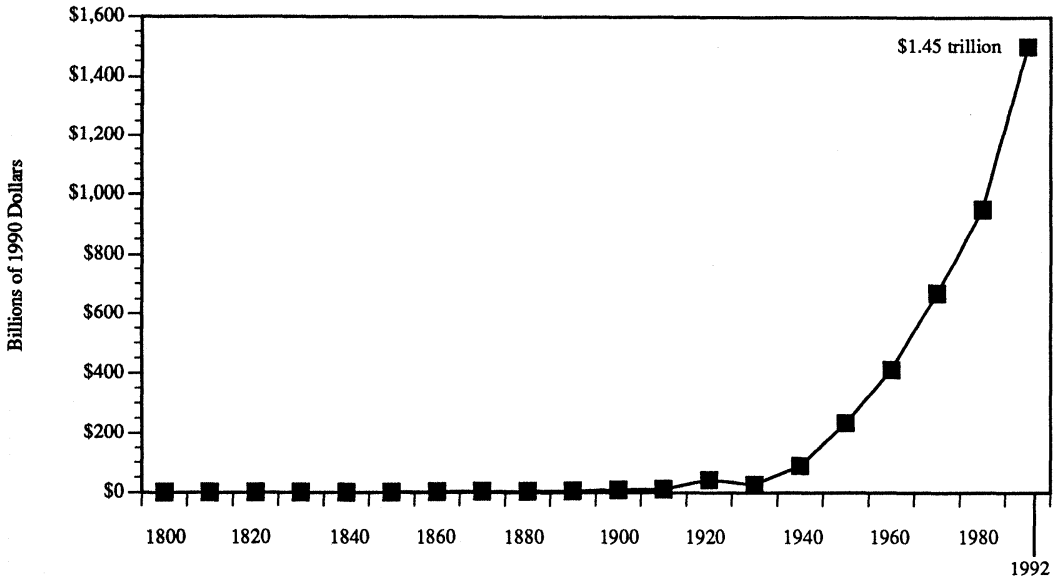
Consider the following:

- There are now more Americans employed by government than by the entire manufacturing sector in America.
- In the past 25 years the federal government has spent \$2.5 trillion on welfare and aid to cities. This is enough money to purchase all of the assets of the Fortune 500 companies plus all of the farmland in the United States.
- In 1987 U.S. farmers received more money in government subsidies than they did in selling their crops in the marketplace.

Stephen Moore is Director of Fiscal Policy Studies at the Cato Institute. This article is adapted from a study prepared by the Institute for Policy Innovation.

Figure 1

Real Federal Outlays, 1800-1992



In short, farmers now produce for the government, not U.S. consumers.

- In three states today—California, Maine, and New York—almost half of all middle-income family wages are captured by government through income, payroll, property, and sales taxes, and other levies.

Why is the American public not rising up in protest? The answer seems to be that the growth of government has been sufficiently gradual over the past 50 to 100 years that most Americans today probably believe that this is the way government in America ought to act and has always acted.

Both of these contentions are wrong. Government has not always, and ought not, act as it does now. The following sections demonstrate with the aid of graphs and figures how government has grown over our nation's history. We examine federal, state, and local government growth in five areas: expenditures, taxes, debt, welfare and transfer payments, and employment.

We standardize the measurement of each of these government growth indices in three ways: in real 1990 dollars, in real per capita 1990 dollars, and as a share of total output

or income. Unless otherwise indicated, all figures are presented in 1990 dollars. Except in a few specified instances, all of the data are from standard government sources.

Federal Outlays

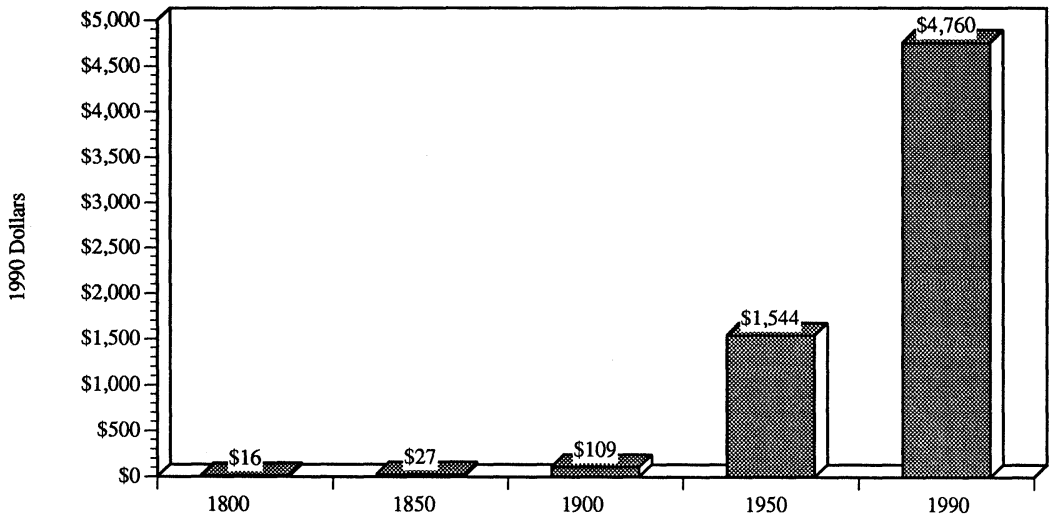
Perhaps the best measure of the impact of government activity is how much it spends each year. **Figure 1** shows the expansion of the federal budget from 1800 to 1992. As the steep ascent shows, federal spending has exploded more than ten thousandfold since 1800 with almost all of the increase in the past 40 years. Real federal outlays have climbed from \$0.1 billion in 1800 to \$0.6 billion in 1850, to \$8.3 billion in 1900, to \$235.1 billion in 1950, to \$1,450.0 billion in 1992.

Of course, the nation is much larger today than in earlier periods, so one would expect government also to be bigger. **Figure 2** shows the per capita level of federal spending over time. Even when adjusting for the growth in population size (and inflation), federal expenditures have mushroomed:

- The federal government spent \$16 per

Figure 2

Real Per Capita Federal Outlays, 1800-1990



person in 1800, \$27 per person in 1850, \$109 per person in 1900, \$1,544 per person in 1950, and \$4,760 per person in 1990.

Bear in mind, this does not include the cost of back door spending, such as mandates and regulations. If they were included here, the cost of the federal government per person today would easily exceed \$10,000.

One of the most meaningful ways of measuring the burden of government is how much it spends relative to total economic output. One might argue that government spends more money today because the American economy has grown so much larger than in earlier periods. If government is consuming the same proportion of total output in two periods, then the economic burden of paying for its activities is roughly the same, even if expenditures are much larger in the later period. Unfortunately, federal spending is not keeping pace with economic growth—it is far outpacing economic growth:

- In 1900 the federal government consumed less than 5 percent of total output.
- In 1950 the federal government consumed roughly 15 percent of total output.
- In 1992 the federal government consumed almost 25 percent of total output.

The Composition of Federal Outlays

The single most important activity of the federal government is to provide for the national defense. A free nation spends as much as necessary to protect its borders and its citizens. Is the modern-day growth of government on the federal level a result of the national defense build-up in the Cold War era? The answer is clearly no. National defense spending as a share of the total federal budget has been continually shrinking, with the exception of brief periods of war:

- Defense spending constituted more than half of total federal outlays in 1800.
- Defense spending constituted more than one-third of federal outlays in 1900.
- Defense spending now constitutes little more than one-fifth of federal outlays.

The flip-side of this steady reduction of defense expenditures as a share of the budget is an expansion in spending on civilian programs, such as agriculture, health care, housing, and aid to state governments. Until the 1930s, the federal government spent almost nothing in each of these areas. This rise has been most prominent since 1950.

Figure 3

Real Federal Health Care Expenditures, 1900-1990

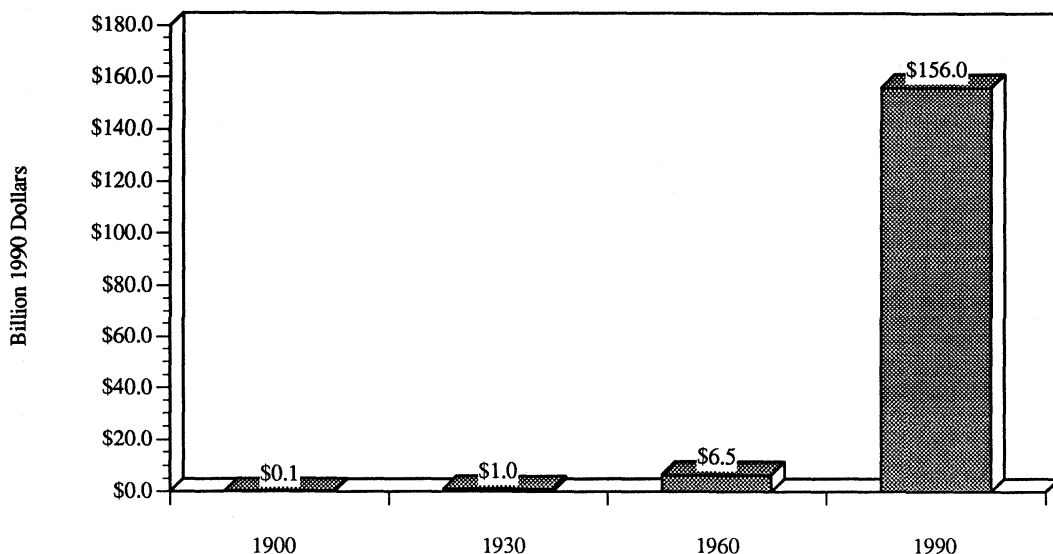


Figure 3 shows the tremendous growth in federal health care spending, from \$100 million in 1900 to \$156 billion in 1990.

These data on federal domestic spending powerfully refute the common complaint by special interest groups that favored domestic programs have been substantially cut back in recent years. Although there were modest spending reductions on selected domestic programs in the Reagan years, in 1992 the outlays for every major domestic area of the budget were at an all-time high—with the exception of agriculture.

State and Local Spending

Some budget analysts claim that federal spending has increased to compensate for budget reductions on the state and local levels. The data show otherwise:

- In 1900 states spent \$32 per person.
- In 1950 states spent \$470 per person.
- In 1990 states spent \$1,934 per person.

On the local level, per capita expenditures have been rising rapidly as well, though not as rapidly as federal and state expenditures. For every dollar that local governments spent per person in 1900, they spent \$2.50 in 1950 and \$8.50 in 1990.

Although the 1980s are commonly reported to have been a decade of government neglect, this assertion is contrary to fact. State expenditures, for example, rose at twice the inflation rate in the 1980s. Local expenditures grew nearly as fast as state expenditures. Moreover, celebrated cut-backs in federal aid to localities were almost entirely replaced by increases in state aid to local governments. In sum, the past decade was one of the most expansive for state and city budgets in U.S. history.

Total Federal, State, and Local Expenditures

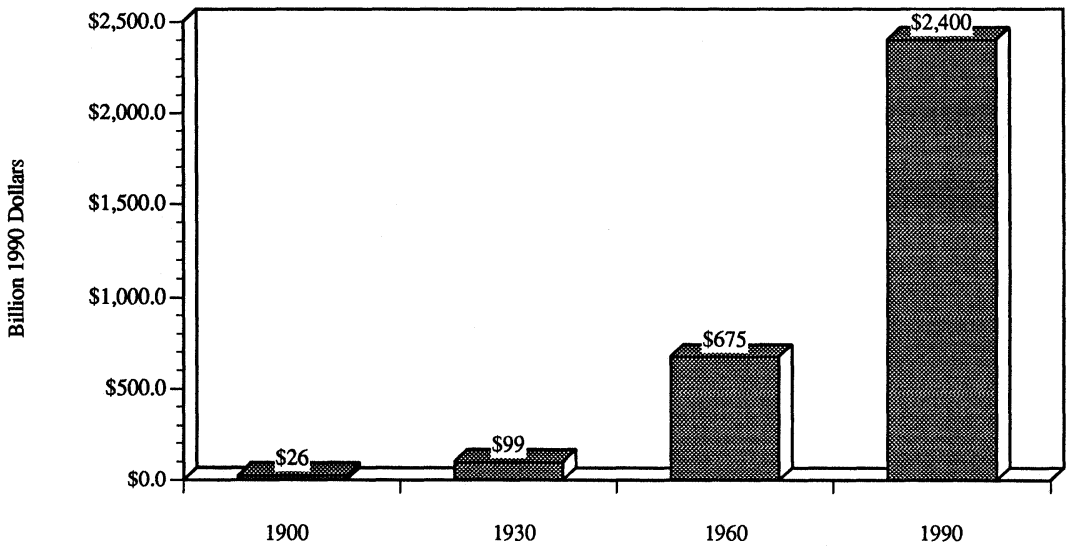
In 1900 government in America was still, by today's standards, comparatively lean and efficient. At that time, total federal, state, and local expenditures were \$26 billion. Americans now support a nearly \$2.5 trillion government, almost a 100-fold increase in real outlays. (See Figure 4.)

Both as a share of total output and on a per-person basis, this is a substantial amount of government to have to pay for.

- Government consumed almost 10 percent of GNP in 1900 and now consumes more than 35 percent.

Figure 4

Real Federal, State, and Local Government Expenditures, 1900-1990



• Government spent \$1,650 for every household in 1900 and today spends \$23,140. (See Figure 5.)

In sum, whatever social and economic problems confront America today, they are clearly not a result of a neglectful or underfunded public sector.

Total Taxes

The American Revolution has been called the greatest tax revolt in world history. Yet as a result of the growth of government expenditures described above, taxes are now at levels that would have been incon-

Figure 5

Real Total Government Expenditures per Household, 1900-1990

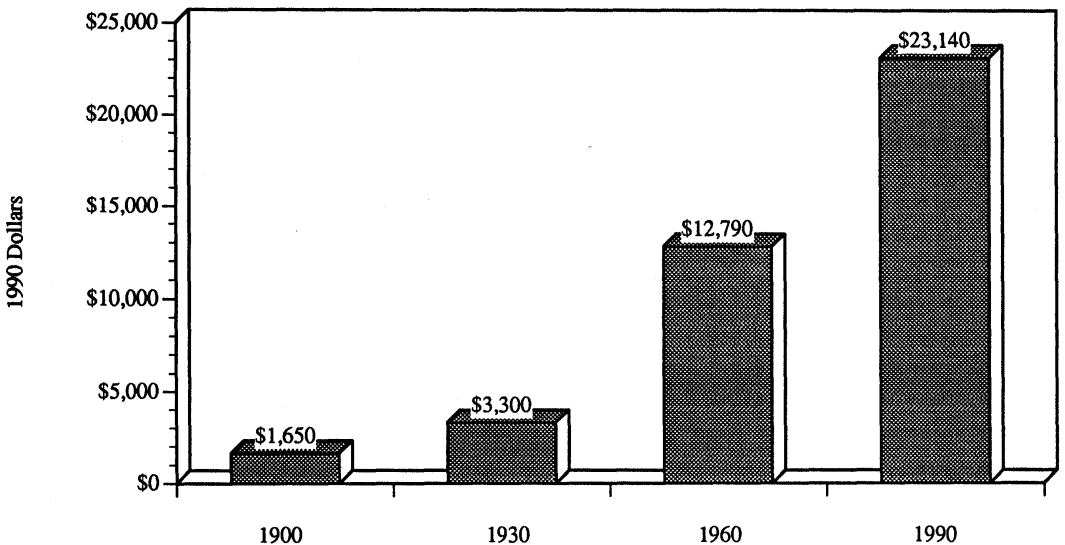
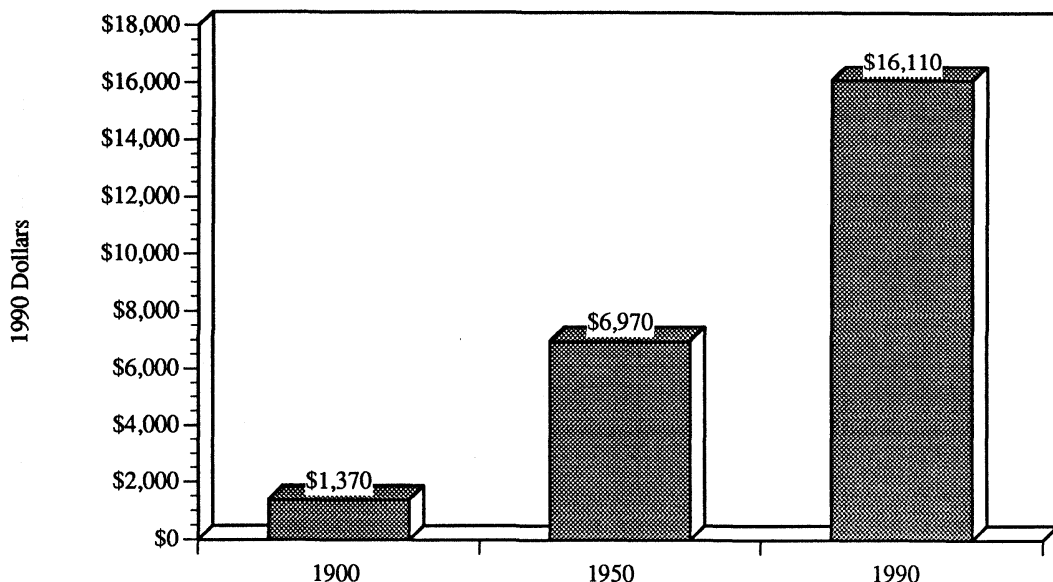


Figure 6

Real Total Government Taxes per Household, 1900-1990

ceivable 200, 100, or even 50 years ago. Today, when combining federal, state, and local taxes, many middle-income Americans work a larger share of the day to pay the government's bills than their own. Even the tax revolt of the late 1970s and early 1980s proved to be merely a temporary restraint on the demands of the government tax collector. Consider the percentage of income that is seized by government in taxes:

- In 1930 workers paid one of every eight dollars of their income in taxes.
- In 1950 workers paid one of every four dollars of their income in taxes.
- In 1992 workers paid one of every three dollars of their income in taxes.

The tax burden is even more clearly expressed by examining taxes paid per household as shown in **Figure 6**.

- In 1900 the average family paid nearly \$1,400 in taxes.
- In 1950 the average family paid nearly \$7,000 in taxes.
- In 1992 the average family paid over \$16,000 in taxes.

This rising tax burden has meant that workers have less take-home pay for consumption and savings. It also means that

workers' incentive to work and employers' incentive to hire are impeded by excessive taxes. These figures do not even include the cost to American individuals and firms of complying with complicated and time-consuming tax laws. By one estimate, Americans spend 5.4 billion hours at an annual cost of \$600 billion to the economy just completing the paperwork requirements of federal taxes.

The Federal Tax Burden

Reliable federal tax data are available back to 1800. For the first 100 years of the nation, taxes were very low. In colonial times opposition to high taxes was deeply ingrained in the American spirit, and this hostility lasted throughout the nineteenth century. Government revenues predominantly came from two sources: revenue tariffs and land sales. The limited sources of revenues for the federal government were a natural restraint on its expenditures. Three events changed that. The first was the imposition of the income tax in 1913. The second was the two World Wars, which made the American people accustomed to very high tax rates. And the third was the

creation of the Social Security program with gradually rising payroll taxes.

Taxes were relatively stable until 1900. It was not until World War II that the federal tax burden rose about threefold.

- In 1800 per capita federal taxes were \$20.
- In 1900 per capita federal taxes were \$110.
- In 1950 per capita federal taxes were \$1,460.
- In 1990 per capita federal taxes were \$4,000.

Income Taxes

The most dreaded tax for the vast majority of Americans is the income tax. Until the ratification of the Sixteenth Amendment, there was no federal income tax—the Supreme Court had consistently ruled the income tax unconstitutional. No law has contributed to the growth of government and the surrender of personal liberties and privacy rights more fully than the creation of the federal income tax. Today, more so than any other federal agency, the Internal Revenue Service has broad and sweeping powers to investigate the personal activities and finances of Americans. Without a search warrant, the IRS has rights to search the property and financial documents of American citizens. Without a trial, the IRS has the right to seize property from Americans.

The income tax burden on the federal level has been continually climbing. During periods of war, income taxes have been substantially raised, and they never are reduced to their pre-war levels. Today, the average American household pays almost \$6,000 in federal income taxes, double the 1950 burden.

States have also become much more reliant upon income taxes as a source of revenues in the past 50 years. Prior to World War II only a handful of states even imposed any income tax. Today, only nine states do not have an income tax, and four of those are considering introducing one. Today state and city governments raise about \$110 billion per year through income taxes. Statis-

tics show the rising share of income taxes as a share of total state and local taxes:

- In 1900 state and local governments raised none of their revenues through income taxes.
- In 1960 state and local governments raised 10 percent of their revenues through income taxes.
- In 1992 state and local governments raised 26 percent of their revenues through income taxes.

The increased reliance of government at all levels on the income tax is a disturbing trend. Almost all studies show that income taxes have the most damaging effect on economic growth, entrepreneurship, and employment, because they are a direct tax on work and business success. They have a punitive effect on the most vital activities in a growing economy.

Tax Rates and Payroll Taxes

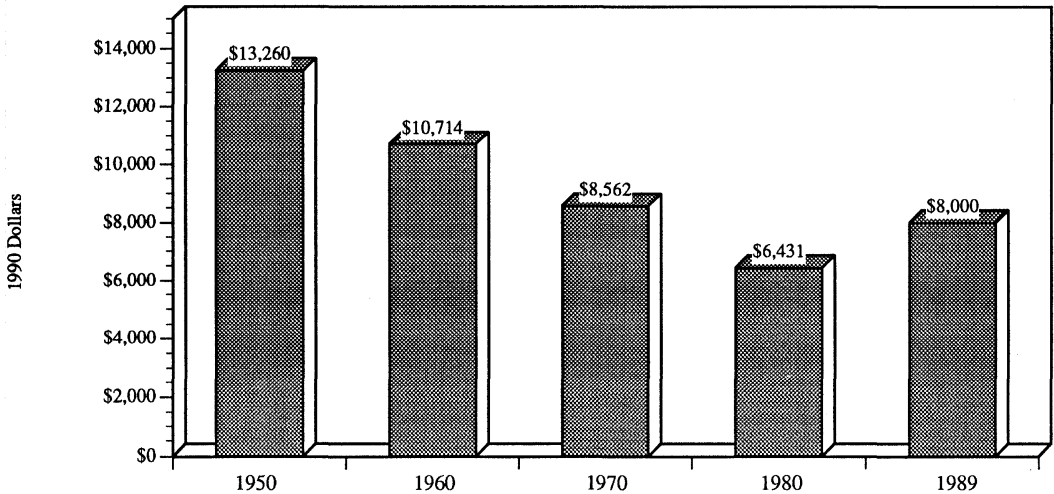
As with tax revenues, tax rates have climbed during the twentieth century. When the first individual income tax was passed in 1913 the rates ranged from 1 to 7 percent. At the time, opponents charged that it would not be long before the rates were raised to the unthinkable level of 10 percent! Supporters countered that this would never happen. History has proven them wrong:

- By 1916 the top rate was more than doubled to 15 percent.
- By 1917, the start of World War I, the top rate was raised to 67 percent.
- In 1944, during World War II, the top rate was raised to 94 percent.
- In the 1950s the top tax rate remained at 91 percent.
- During the Reagan years the top marginal rate was chopped to 28 percent.
- Today the top marginal rate is 32 percent with proposals in Congress to raise the rate to 40 percent or more.

Although the Kennedy and Reagan administrations cut the tax rates, at lower rates the government is collecting more revenue than ever before. For instance, from 1980 to 1992 federal income tax collections rose by roughly \$150 billion. Moreover, the share of

Figure 7

Value of Federal Income Tax Dependent Exemption Family with Four Children, 1950-1989



the income tax burden borne by the richest 10 percent of Americans rose from 48 to 56 percent from 1981 to 1989. Virtually every country in the world today recognizes the economic benefits of lower marginal tax rates in stimulating work and in attracting investment. Every industrialized nation in the world has lower marginal income tax rates today than in 1980.

Although income tax rates have been shaved in the past decade, for middle income American families with children the income tax burden is higher than ever before. One reason is that the value of the dependent child exemption has steadily eroded over the inflationary post-World War II period. **Figure 7** shows:

- In 1950 the exemption was \$600 per child. In 1990 dollars, for a family with four children it would have been worth \$13,260.
- In 1989 the value of the personal exemption was \$2,000 per child, or \$8,000 for a family with four children.

• The failure of the dependent exemption to keep pace with inflation means that the average family with four children pays taxes on \$5,000 more income than it otherwise would.

Another reason that the middle class is

feeling the crushing burden of taxes in recent years is that Social Security payroll taxes have continually risen since their inception in 1937. **Figure 8** shows:

- The first Social Security payroll tax rate, which was in place from 1937 to 1950, was 2 percent.
- By 1970, after the introduction of Medicare and the hospital insurance tax, the payroll tax rate was 9.6 percent.
- By 1980 the rate was 12.3 percent.
- By 1990 the rate was 15.3 percent.

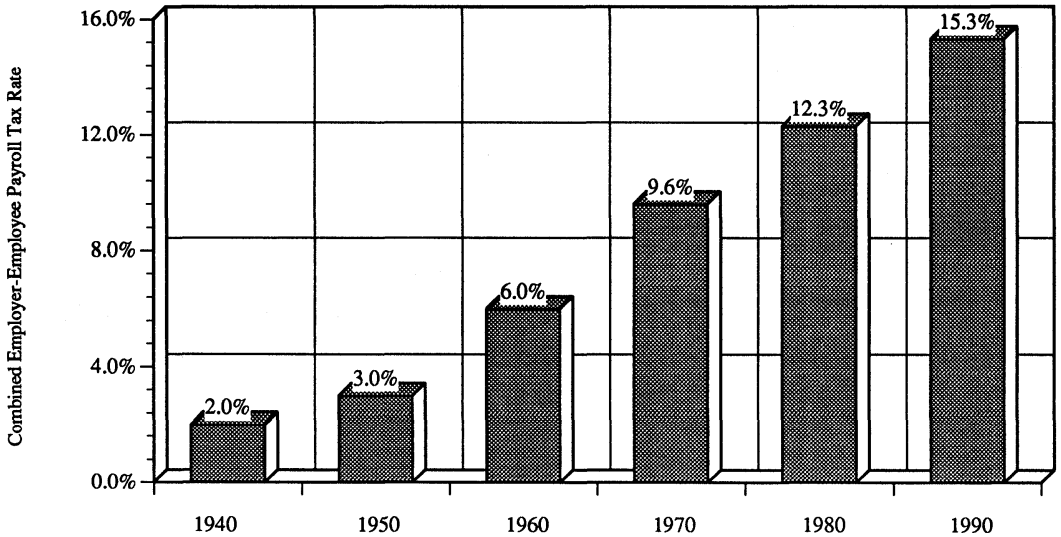
Today, the average middle-income family pays a greater share of its income in payroll taxes (when including the employer's share of that tax) than in income taxes. That is why reducing payroll taxes may be the most effective means of reducing the tax burden on middle-income and low-income working families.

Borrow and Spend

In the past several decades the government's *modus operandi*, tax and spend, has been expanded to include a new government financing scheme: Borrow and spend. For the first 150 or so years of this nation, government borrowing was confined to

Figure 8

Social Security Tax Rate, 1940-90



times of war. There was a moral, though not a Constitutional, imperative that government not pass on the costs of its spending to future generations. This moral restraint lasted until the 1930s.

During the Great Depression the most prominent economist of the first half of the twentieth century, John Maynard Keynes, introduced his economic theory, which in effect legitimized deficit finance as an appropriate tool of government. The Keynesian theory was that government should borrow when times are tough and then pay back the debt during times of economic expansion. President Franklin Roosevelt was the first president to embrace this theory, which fit well with his New Deal domestic spending plans. By stripping away the prevailing moral restraint against government borrowing, Keynes opened the floodgate for massive deficit spending. By 1970, Richard Nixon declared, "We are all Keynesians now," a prophetic statement. Government red ink would soon flood to once unthinkable heights as each subsequent Congress used more and more debt as a way of avoiding having to say no to the army of Washington special interests with insatiable demands for taxpayer money.

- The federal government has only balanced the budget once in the past 25 years.

- In 1992 the federal deficit reached an all-time high of \$290 billion, a peacetime record and 6.5 percent of GDP. The 1993 deficit is expected to break that record.

- The federal government now borrows \$700,000 million every minute of every day, 365 days a year—more than \$11,000 every second.

One consequence of this borrowing binge has been a mushrooming of the national debt. **Figure 9** shows:

- In 1900 each family of four carried a \$2,600 share of the national debt.

- In 1950, each family of four carried a \$41,000 share of the national debt.

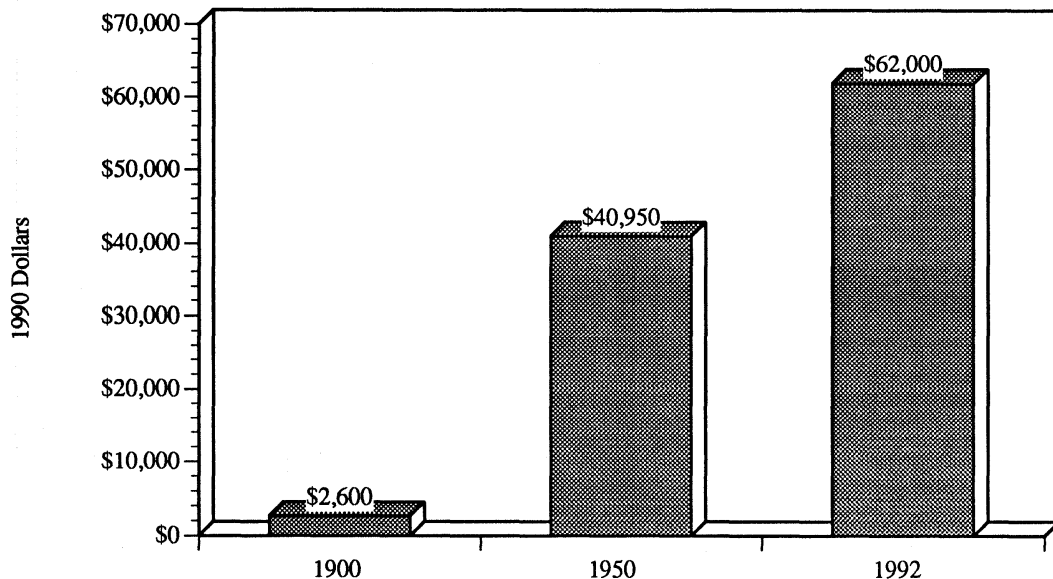
- Today each family of four carries a \$62,000 share of the national debt.

Interest on the Debt

Another consequence of this borrowing binge to finance a massive expansion of government programs has been that Americans are paying more and more taxes just to pay interest on the debt. **Figure 10** shows that interest is one of the fastest growing areas of the federal budget:

Figure 9

Real Federal Debt per Family of Four, 1900-1992



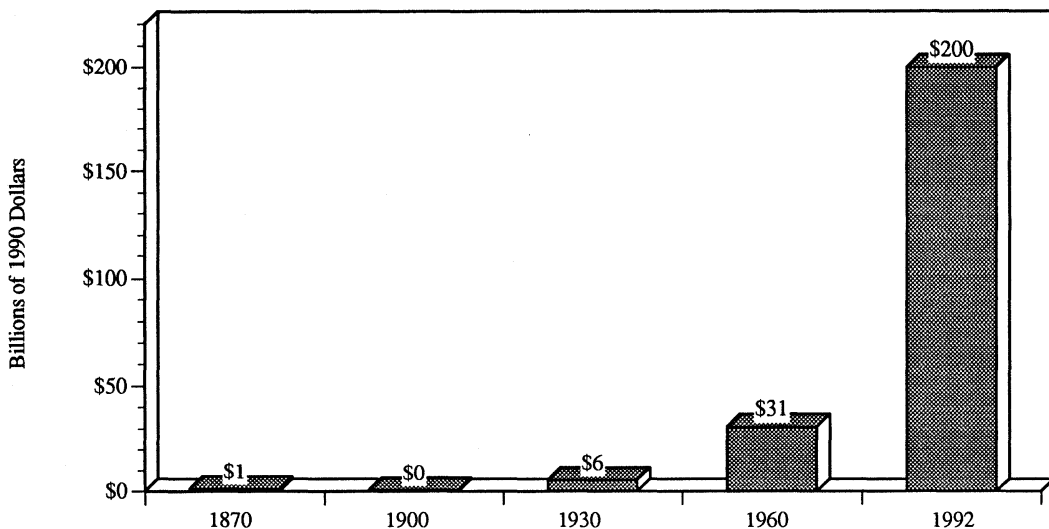
- In 1900 interest expenditures were \$1 billion.
- In 1960 interest expenditures were \$31 billion.
- In 1992 interest expenditures reached \$200 billion.

The American public understands full

well that no institution can continue to spend beyond its means year after year without risking financial ruin. Perhaps the only way to end this fiscally reckless pattern of deficit spending is to amend the Constitution with a balanced budget/tax limitation requirement. Such a measure commands the

Figure 10

Real Federal Interest Expenditures, 1870-1992



support of three-fourths of the public—and has so for almost two decades. Yet, for obvious reasons, Congress has been reluctant to slay its cash cow. Even when the deficit set new records in 1992, the House of Representatives defeated the balanced budget amendment.

A Nation “Entitled”

A great challenge in modern-day America is to find some member of the public who does not receive a check from the government for one purpose or another. Every week the federal government sends out billions of dollars to farmers for growing (and in some cases, not growing) crops; to veterans for health care or retirement; to the unemployed for not working; to those with low incomes to pay for food and shelter; to college students to pay for school; to the elderly for being retired; to the elderly and poor to pay for health care; to unwed mothers to pay for the care of their children; and on and on. Fifty or 100 years ago most of these transfer programs did not exist. Today even the slightest whisper of budget cutbacks in these programs is met with howls of protest. In short, we have become a nation of citizens who regard themselves as entitled to the largesse of government.

What is the impact of such spending on economic growth? None of these programs is oriented toward the legitimate function of government in ensuring the public safety, nor are they even building bridges or roads or cleaning the environment. These programs are not designed to create wealth in our society; they are designed solely to redistribute it. Thereby, they interfere with and destroy the wealth creation process.

The alarming trend in federal, state, and local social welfare spending can be tracked from 1900, because prior to that time there were virtually no federal transfers, except for veterans' benefits, and the only significant state and local transfers were small public aid programs.

- In 1900 the government spent \$10 billion on social welfare.

- In 1950 the government spent \$130 billion on social welfare.

- In 1988 the government spent \$980 billion on social welfare.

It is noteworthy that in 1950 these transfer programs constituted roughly 12 percent of the federal budget. Today they consume almost 40 percent. In the 1989 to 1992 period alone, real federal expenditures on entitlements grew by \$140 billion.

Welfare

A huge portion of our social welfare spending today is for Social Security. Social Security is the largest and most popular program in the federal budget. Some have suggested that it is only Social Security that is growing rapidly, not other income transfer programs, such as welfare. This is not so. The anti-poverty programs are growing too. Total Aid to Families with Dependent Children (AFDC) spending at all levels of government has increased dramatically over the past 50 years:

- In 1940 public assistance spending was \$1.3 billion.

- In 1970 public assistance spending was \$16.6 billion.

- In 1992 public assistance spending was \$18 billion.

The primary reason that total welfare spending is growing is not that the benefit levels are substantially more generous, but rather that welfare caseloads continue to explode. The number of AFDC recipients continues to grow:

- In 1936 in the middle of the Depression there were just over one-half million recipients.

- In 1950 there were 2.2 million recipients.

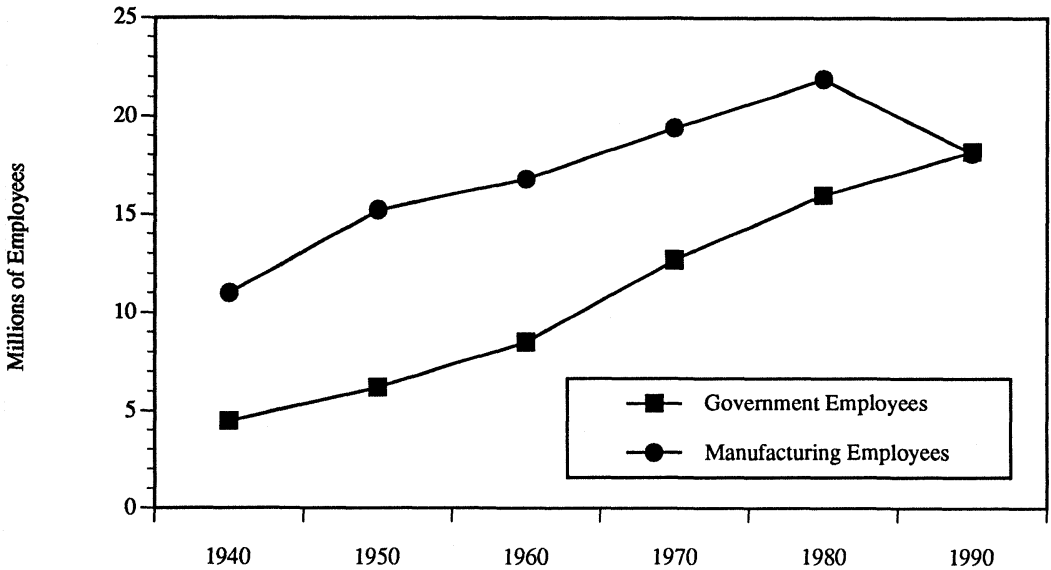
- In 1970 there were 9.7 million recipients.

- In 1992 there were 13 million recipients.

Other public welfare programs show the same pattern of increase. For example, the food stamp program, started with a budget of less than \$2 billion in 1970, now has a budget of \$23 billion. Today there are roughly 25 million people collecting food stamps—or nearly one of every ten Americans. Millions of able-bodied Americans are

Figure 11

Government Employment Outpacing Manufacturing Employment



now collecting government checks, making welfare one of the fastest growth industries in America today.

Despite the huge outlays on anti-poverty programs, this spending has done amazingly little to reduce poverty. One reason for this lack of success is that welfare spending is badly misallocated. Another is that welfare spending actually creates poverty.

- In 1990 government anti-poverty spending equaled \$184 billion.

- In 1990 it would have cost only \$75 billion to bring every family with an income below the poverty level up above that benchmark. Hence, government was spending two-and-a-half times what would be needed to end poverty in America.

- However, after that \$184 billion was spent, some 30 million Americans remained below the poverty level.

- More than half of all welfare recipients had *pre-welfare incomes* above the poverty level.

- The welfare industry intercepts a huge portion of anti-poverty funds. In cities such as Milwaukee, there are now 62 separate welfare programs, each with its own bureaucratic costs.

All told, since the early 1960s, govern-

ment at all levels has spent \$3.5 trillion on programs for the poor. Yet there are more poor in 1993 than there were in 1963. Sadly, there is much truth to the adage that America has fought a war on poverty, and poverty won.

Civilian Employees

Government bureaucracy has grown at a steady pace at the federal, state, and local levels. In the past 20 years private sector union membership has shrunk, while public sector unions have record membership. Most of this growth in public employment has been at the state and local levels.

Today there are 18 million civilian government employees, up from 8.5 million in 1960 and 4.5 million in 1940. For the first time ever, in 1992 there were more civilian public sector employees than manufacturing employees in the U.S., as shown in **Figure 11**.

With the growth in the number of government workers, America has witnessed a growth in government payrolls:

- In 1940 government spent \$5 billion on monthly payroll.

- In 1960 government spent \$14 billion on monthly payroll.

- In 1990 government spent \$36 billion on monthly payroll.

Although the 1980s are conventionally believed to have been a decade of hardship for public employees, the truth is that on the state and local levels government pay went up much faster than private sector pay. A 1992 report by the American Legislative Exchange Council (ALEC) shows:

Average state and local government employee compensation (including wages, salaries, and employee benefits) has been rising more quickly than average private employee compensation for 40 years. . . . Average state and local government employee compensation increased by an inflation-adjusted 14.6 percent, or \$4,031, in 1989 compared to 1980. For every new dollar of average compensation increase for private sector employees, state and local government employees received more than \$4.20.

Hence, today the compensation for public employees in many areas and many occupations is significantly above that of private sector workers. The government is a very generous employer, as illustrated by the following examples:

- The average public sector bus driver earns 70 percent more than the average private sector bus driver.

- Reliable studies show that postal workers make fully one-third higher salaries and benefits than comparably skilled private sector workers.

- The voluntary quit rate from the federal government was lower in 1987 than the private sector quit rate during the peak of the Great Depression when unemployment rates exceeded 20 percent.

- The average pay for a New York City school janitor is \$57,000, with some earning as much as \$80,000.

- After 15 years on the job, the average New York City employee receives 51 days off, including holidays, vacation time, sick leave, and so on. That is, some New York city employees work the equivalent of 4 days a week.

As the ALEC study concludes, America's government workers have become "a protected class." Unfortunately, for the taxpayers who pay their inflated salaries, these workers are a rapidly growing protected class.

Military Employees

These numbers do not include the largest government employer of all: the military. Indeed, the U.S. Department of Defense is the largest employer in the United States—public or private. The number of Americans employed in the armed services has continually risen:

- In 1800 there were 7,000 military personnel.

- In 1850 there were 20,000 military personnel.

- In 1900 there were 125,000 military personnel.

- In 1950 there were 1,500,000 military personnel.

- In 1990 there were 2,200,000 military personnel.

These numbers do not include any of the civilians who work for defense contractors producing weapons, providing equipment, and performing research and development. If these indirect government workers, part of the military-industrial complex, were included, the employment numbers could easily double.

Conclusion

American government has far outgrown the limits set by our founders in the Constitution. If the twenty-first century is to be the American century, government must be redirected to its proper and legitimate role. The growth of government is the greatest tragedy of the twentieth century. □

For a copy of the complete report from which this essay is taken, please write or call The Institute for Policy Innovation, 250 S. Stemmons, Suite 306, Lewisville, Texas 75067, (214) 219-0811.

CAN VOLUNTARISM SURVIVE THE TAXMAN?

by James L. Payne

The envelope from the Idaho State Department of Employment came on a Friday. I remember because it was the day after our Thursday night budget meeting on the impending insolvency of our voluntary organization.

Our group runs the animal shelter in the north Idaho community of Sandpoint, providing a humane solution to the problem of unwanted dogs and cats. We return lost pets to owners, and provide for pet adoption, quarantine, and euthanasia. We also organize pet responsibility education for the schools, and a pet therapy program for residents of nursing homes.

This highly successful service is supported on a voluntary and philanthropic basis. Our only connection with government is that we charge the town for the strays its animal control officer delivers to us. These charges make up less than five percent of our revenue. The backbone of our finances are memberships, donations, private foundations, and fund-raising activities. The efforts of our three paid staff members are supplemented by scores of volunteers (who logged a total of 9,317 hours in 1991). The nine board members are all active volunteers at the shelter, so they can make fully informed, sensitive decisions about shelter policies

James Payne is President of Friends of the Shelter in Sandpoint, Idaho, and author of a recent book on the burdens of the U.S. tax system, Costly Returns, published by ICS Press.

and personnel. All in all, the shelter represents a model of community action: an organization based on the principles of generosity and neighborliness, efficiently providing a needed public service.

Unfortunately, this civic idyll is threatened. The enemy is not greed, or indifference, but society's own do-good agency, government. To a degree seldom appreciated by legislators, government taxation is undermining the public service activities of voluntary groups like ours. This will surprise those who assume that voluntary groups are exempt from taxes. Their mistake is forgetting that there are many, many taxes these days, and that non-profits are exempt from only a few.

As I noted, we are in financial difficulties. After allowing for one-time expenditures, our underlying deficit for the first quarter of 1992 was \$423 monthly. This shortfall is more than accounted for by the funds that governmental units are taking away from us. The figures show that we paid out \$250 a month in federal payroll taxes, and \$217 a month in state worker compensation taxes.

Even our fund-raising is burdened with taxes. We have a thrift shop, entirely staffed by volunteers, which resells cast-off clothing. This operation supplies a triple social benefit: it aids recycling; it supplies low-cost clothing for the needy; and it provides us with one-third of our income. Because our volunteers can't keep track of the sales tax

on each purchase, we have to deduct it from our overall earnings. This outgo came to \$251 monthly.

The Idaho sales tax hits us as purchasers, too. Some politically well connected non-profits—including the American Cancer Society and forest protective associations—have wangled exemptions from the legislators, but not animal shelters. Whether we buy a refrigerator to store vaccines or envelopes for a fund-raising drive, we pay an additional five percent “for the governor.” So there’s another \$50 per month lost.

In addition to the \$768 monthly drain of all these taxes, government’s tax reporting and depositing requirements create extra work and expense. For example, we paid \$275 for tax return preparation.

Yet Another Burden

In this bleak picture there seemed to be one encouraging aspect. There was no unemployment insurance tax figuring in our list of expenditures. I took this to mean that in its heart of hearts the state was aware of our worthy public service activities and had thoughtfully lifted this burden from us. That was before I opened the envelope from the Idaho Department of Employment.

Inside, written in the menacingly incoherent language that government computers speak these days, was a document indicating a state financial demand. A morning of hectic telephoning disclosed a disaster. We were not exempt from the unemployment tax burden after all. In our case, that burden was being carried as a requirement to pay the specific unemployment claims of ex-employees. A former worker had filed such a claim and we were liable for the entire amount, \$4,680.

Of course we contested the claim. We gathered data, interviewed volunteers, took statements, prepared testimony, consulted lawyers, and participated in a grueling five-hour hearing. While we were struggling against this state-imposed snare, our other activities suffered. Fund-raising was put on

the back burner, and shelter supervision was shortchanged. After four months (and several bureaucratic bungles that required an appeal to our state legislator to unravel), the employment department issued its decision: we still owed the \$4,680. The burden doesn’t even end there. In order to avoid such catastrophic bills in the future, we shall have to sign up to be taxed on a regular basis for the unemployment system; this will add another \$700 a year to our costs.

To put these sums in perspective, when volunteers like myself sit at a donation table in the Safeway, we do well to raise \$20 in a two-hour shift. Our July ice cream social, which drew on the generosity and sacrifice of 34 volunteers, 27 cake donors, and four business donors, raised \$1,041.49. This amount, the reader will notice, was less than one-quarter the amount the state of Idaho took from us in the unemployment claim. How long can the idealism and morale of our volunteers withstand this sinister arithmetic?

Should lawmakers try to help voluntary groups by giving them more tax exemptions? The solution is not this simple. For one thing, exemptions usually increase the tax compliance burden, since they require recordkeeping and justification. (Those who itemize deductions will appreciate the point.) For another, more exemptions for non-profits would exacerbate the problem of unfair competition with the for-profit sector. After all, ordinary businesses also provide needed community services. Government shouldn’t be making life difficult for the animal shelter, but the solution is not an intensified war against shoemakers, dentists, and plumbers.

What our lawmakers have to realize is that taxation, for whatever well intentioned purpose, always does social harm. It undermines, often unwittingly, cherished institutions and functions. Volunteer groups illustrate this truth. Politicians pay lip service to generosity, self-help, and community problem-solving. Yet with their tax programs they are driving nails into the coffin of American voluntarism. □

JUDGING POLITICIANS

by Rick H. White

Perhaps the greatest single problem facing the American voter over the next few years is the fact that too many of our elected representatives do not really understand the system that they have been elected to uphold and defend.

The actions and utterances of politicians from city hall to the U.S. Capitol reveal, at best, a failure to appreciate our Constitution and its basic principles or, at worst, an outright contempt for the system that has built this nation.

Many elected officials firmly believe that they know better what is good for us than do the voters who elected them. Some believe that we must be tricked or coerced into doing the "right thing." Many apparently view the Constitution and the Bill of Rights as ancient documents that simply get in their way and must be outmaneuvered at every turn. Many of our elected officials have demonstrated that they are incapable of leading their own lives in a rational manner but believe they are capable of dictating how the rest of us should live ours.

This doubting of our Constitution is not a new phenomenon. Many good men who fought and bled for the birth of our nation had serious doubts about whether or not our form of government could endure. Nations, until ours, had generally been ruled by some sort of elitist class and the very idea that a

government could be drawn from the "common herd" was laughable to many.

The strength of our Constitution has been proven by the fact that despite decades of elected representatives chipping away at it and trying to destroy its foundations, it is still the soundest document ever devised by, and for, men who wish to live together in peace. Those foundations have been eroded to an alarming degree, but the basic principles are intact and still holding this nation together. Our Constitution is still the envy of much of the world and the model others follow.

The most spectacular success stories of the post-World War II era are the countries that emulated us, Japan and West Germany. The most spectacular failures of the same period are those of the Soviet Union and its satellites who believed in a controlled economy and an all-powerful central government.

In the future, we need to start seeing our politicians in a new light. We have been demanding a handful of solutions to a few specific problems while paying little or no attention to the principles a particular politician espouses. For far too long we have been willing to elect the least objectionable candidate who sought the job rather than seeking out the best among us.

The past year or two have shown that a great many voters are tired of the status quo. But this voters' rebellion has been without a cause, simply striking out at political "ins" without a constructive formula for correcting the evils that exist.

We all have our little axes to grind. If a

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man can come up with the proper bromides to appease a majority of us, he's in, even though we know nothing of his principles.

If a politician has a specific formula for creating more jobs and improving our economy, fine, we should hear it, but more important are the principles upon which that politician can be expected to act during his term in office. Does he believe in limited government or in cradle-to-grave protection? Does he believe in a free-market economy or in government intervention and management? If you really know the principles upon which a person is acting, you know what his specific actions will be in regard to specific problems.

The erosion of many of our freedoms and much of our success economically has been accomplished with, if not our blessings, more than a little help from us who vote without thinking about what we are really getting.

How can we seriously believe that someone who has bounced checks every month for years is going to handle national finances astutely? Such a person doesn't understand financial problems and certainly doesn't know how to make long-range plans.

How can we take seriously the moral leadership of someone who admits having spent years cheating on his spouse? If he would cheat the person he supposedly loves above all others, why wouldn't he cheat the rest of us?

How do you believe someone who says, "Yes, such-and-such company has contributed millions to my political campaigns over the years, but I don't owe them anything"? He is either telling a lie or, perhaps worse, if he really believes that nothing is expected in return for those millions, is so naive that he is dangerous.

Should we expect perfection? Why not? You may never find it, but you should always seek it.

There are certain requirements that go with certain jobs. You don't hire a bank teller who is known to gamble away his salary on the horses every week. You don't hire a policeman who has a \$200-a-day

cocaine habit. You don't seek spiritual help from a minister who gets drunk every night and beats his wife. We demand certain things from bank tellers, policemen, ministers, and others. Should we expect less from our elected representatives? Being an elected representative demands a high degree of integrity and an absorbing dedication to correct principles.

A Matter of Character

When an individual gets into debt over his head, drinks too much, or cheats on his wife, we ignore it and say it is his business. The fallout from his actions is limited to those immediately involved with him. When an elected representative does such things it is everyone's business. It speaks of character flaws that we cannot tolerate in one who is responsible for our lives in so many ways.

Is this a double standard? One set of rules for us mere mortals and another for our elected representatives? You bet it is. When a man decides to be a police officer he knows that certain types of personal behavior are precluded. It is the same for most of us to one degree or another. Banker, doctor, lawyer, priest, employer, employee, parent—whatever our role in life we have certain obligations that preclude certain acts. An elected representative should be as much above reproach as he is capable of making himself. If you don't like the standards, don't run for public office. If you can't take the heat, get out of the kitchen.

The best of us make mistakes, but a mistake is one thing, a way of life is another. We must begin seriously seeking, for city and county commissions, state and federal offices, people who seriously believe in the principles of a free market, private enterprise, and limited government. Not those with glib answers and a quick fix, but those who can stay the course.

It is not unrealistic to seek the best among us to represent us. It is unrealistic, and dangerous, to think we can survive without principles and without elected representatives who believe in those principles. □

THOMAS JEFFERSON: LIBERTY AND POWER

by Clarence B. Carson

It is doubtful that Thomas Jefferson could have been elected President in the twentieth century. It is almost equally doubtful that he could have been elected to that high office at any time past 1850. Now I do not draw these conclusions simply because, as we say, times change, and any person thrown suddenly into another era would be more or less out of place and unsuited to positions of power and prestige in the later era. It is rather that Jefferson did not have the temperament, character, and turn of mind to have won election in the later era.

The Man

Jefferson shrank from public debate as a young child does from going into the darkness alone. He avoided, so far as possible, all occasions for public speaking. He disliked pomp, ceremony, confrontations, and heated discourse. As President, he preferred written opinions from his department heads rather than to convene cabinet meetings in an attempt to reach conclusions. He was tall, gangly, freckled, sandy-haired, and some thought they detected a sneakiness about him. For this latter reason, especially,

he would probably have been a disaster on television, where openness and straightforward honesty of appearance is essential, though actors can feign such looks with ease, while honest men with a squint might be thought scoundrels. Some thought Jefferson was being overly anxious for popular approval when he did not speak out on controversial matters. The truth may be otherwise; Jefferson loved the truth too much to see it traded casually in the marketplace.

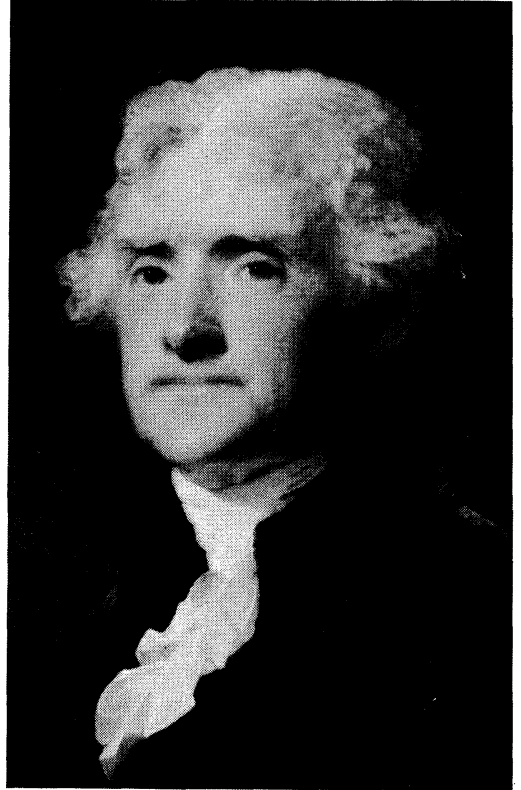
In any case, Jefferson was retiring and what we would call "cerebral." Possibly no man since Aristotle took more pleasure in observing, recording, and classifying or describing natural phenomena than did Jefferson. Indeed, when time permitted, he filled notebook after notebook with such observations. Jefferson had an active and innovative interest in every intellectual pursuit and activity of his day. He carried on a vigorous correspondence with European and American philosophers and scientists throughout much of his life. His talents were varied and his interests universal. He was trained in the law and admitted to the bar, served in the colonial legislature of Virginia and the Second Continental Congress, drafted the Declaration of Independence, was elected governor of Virginia, was a prolific writer, served as Minister to France, was first Secretary of State of the United States, and was elected second Vice President and third President of his country.

Dr. Clarence Carson is an American historian, a prolific author, and a longtime contributor to The Freeman. This essay is based on his newest book, Basic American Government, which is available from The American Textbook Committee, Rte. 1, Box 13, Wadley, AL 36276, for \$32.95 hardcover.

As if all that were not enough, he was a gentleman farmer, a manager of a large estate, a scientist, an inventor, and an architect. Of his inventions, "He invented a hempbeater, worked out a formula for a mold board plow . . . , devised a leather buggy, a swivel chair, and a dumbwaiter. . . . He was constantly studying new plows, steam engines, metronomes, thermometers, elevators, and the like, as well as the processing of butters and cheeses. He wrote a long essay for Congress on standards of weights and measures in the United States . . . , [and] conceived the American decimal system of coinage"1

Indeed, books could be written, and many have been, on Jefferson's life and attainments. Several of his contributions, each on its own, might have earned him a secure place in American history. Almost certainly his authorship of the Declaration of Independence would have made him a fixture in the firmament of the Founders. His Virginia Bill of Religious Liberty was a classic statement even before it was adopted by that legislature. His two terms as President by themselves have earned him a place among *America's Ten Greatest Presidents*.² His efforts in founding the Jeffersonian Republican Party would surely have been remembered, as would his architectural contributions for the University of Virginia, the magnificent concept of Monticello, and his background aid for the layout of Washington, D.C. Much more could be named, but surely his eminence has long since been established.

Jefferson himself wanted to be remembered for his authorship of the Declaration of Independence, the Virginia Bill of Religious Liberty, and his contribution to the founding of the University of Virginia. These are indeed enduring monuments, though his First Inaugural Address is no less one. Yet there is something else that he did for which he most needs to be remembered in our time. Jefferson was a vigorous and instructive advocate of the constitutional dispersion of powers of government—the separation of powers within the United States government and their dispersion be-



Thomas Jefferson, 1743–1826

tween the central and state governments. He championed this aspect of the Constitution because it limited government, and limited government was essential to individual liberty.

Defender of Liberty

It is well known, of course, that Thomas Jefferson was an outspoken advocate of individual liberty. He defined it this way: "Of liberty then I would say that in the whole plenitude of its extent, it is unobstructed action according to our will, but rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others."³ Moreover, Jefferson professed a passionate attachment to liberty. He wrote to Dr. Benjamin Rush that he had "sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."⁴ His belief in liberty was based in the natural rights doctrine, itself grounded in natural

law theory. Most proponents of natural rights maintained that natural rights were altered and reduced when man entered society. Jefferson, by contrast, argued that “the idea is quite unfounded that on entering into society we give up any natural right.”⁵ In any case, Jefferson was a vigorous advocate of individual liberty.

There should be no doubt, either, that Jefferson believed that government was the greatest, if not only, threat to individual liberty. He wrote that “The natural progress of things is for liberty to yield and government to gain ground.”⁶ This is so because those who gain positions of power tend always to extend the bounds of it. Power must always be constrained or limited else it will increase to the level that it will be despotic. Jefferson wrote to Judge Spencer Roane in 1819, “It should be remembered, as an axiom of eternal truth in politics, that whatever power in any government is independent, is absolute also”⁷ With this principle of necessary limitation in mind, Jefferson declared “that a bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse, or rest upon inference.”⁸

Nor did his many years in government service assuage his fears of government nor lead him to view it as any less a threat to liberty. If anything, it confirmed him in his earlier beliefs about not entrusting overmuch to those in power. But it was not so much Jefferson’s tenacious attachment to liberty nor especially his fear of government power that set him apart from many of his contemporaries. Most American leaders of the founding era expressed similar beliefs. It was also widely believed that the powers of government should be separated and balanced so that men in power, in their struggle with others for power, would be constrained and limited in their exercise of power. This was generally believed to be the necessary condition for the continuation of liberty.

Most of Jefferson’s contemporaries subscribed to the idea that the powers of government should be dispersed—at least so far as to divide them among the three branches.

Many became persuaded, too, that dividing the powers of government between the general and state governments was a good thing. But few, if any, saw as clearly as Jefferson did how much effort had to be put into making such a system work and how far the effort had to be carried.

If the system of checks and balances is to work, he thought, it would be because those entrusted with power used their imaginations, wills, and determination to protect their interests and assert their prerogatives. Checks and balances entail tension, an ongoing and, above all, unresolved tension, and men are usually disinclined to live with unresolved tensions. The natural inclination is to establish some authority who, or which, has the assignment to settle the issues, once and for all, and resolve the tension. Jefferson understood more clearly than anyone else ever has, or at least discussed it more clearly, that the resolution of these tensions—arising from different claims to power among the branches or between the states and the United States—would be to remove the checks and balances.

Balances and Checks

For Jefferson, the preserving and working of the checks and balances in government depended upon where the authority was lodged to interpret the Constitution. The ink was hardly dry on the Constitution before some were asserting that the federal courts alone could interpret the Constitution and that the ultimate authority to do so was the Supreme Court. Indeed, that view was widely held and claimed by much of the federal judiciary before the end of the 1790s. (Judges have never been noted for being reluctant to extend their authority.) Jefferson was hardly alone in opposing this view, but he was almost certainly the most thorough in working out and asserting a counterposition.

While he was President, he asserted his position by his action (or inaction) rather than by theories, but after he had left office he made clear in letters and otherwise his

position. For example, he wrote in a letter in 1820: "You [William C. Jarvis] seem . . . to consider the judges as the ultimate arbiters of all constitutional questions, a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy . . . The constitution has erected no such single tribunal, knowing that, to whatever hands confided, with the corruptions of time and party its members would become despots."⁹

Several editors of newspapers had been found guilty of violating the Sedition Act of 1798 and sent to prison. When Jefferson became President, he pardoned and freed such of them as were still in prison. In correspondence with Abigail Adams in 1804, he justified his action this way:

You seem to think it devolved on the judges to decide on the validity of the Sedition Law. But nothing in the Constitution had given them a right to decide for the executive, more than to the executive to decide for them. Both magistrates are equally independent in the sphere of action assigned to them. The judges, believing the law constitutional, had a right to pass a sentence of fine and imprisonment, because the power was placed in their hands by the Constitution. But the executive, believing the law to be unconstitutional, were bound to remit the execution of it, because that power has been confided to them by the Constitution. That instrument meant that its co-ordinate branches should be checks on each other. But the opinion which gives to the judges the [sole] right to decide what laws are constitutional . . . would make the judiciary a despotic branch.¹⁰

Jefferson's position was that neither the United States, nor any of the branches of the government, nor of the states, is the ultimate arbiter of the Constitution. Ultimate authority is not vested in the United States government. It is a limited government. On the dispersion of powers among the governments, he wrote to Joseph C. Cabell in 1816: "Let the national government be entrusted with the defence of the nation, and its

foreign and federal relations; the State governments with the civil rights, laws, police and administration of what concerns the State generally; the counties with the local concerns of the counties . . .," and so forth. "It is by dividing and subdividing . . . that all will be done for the best. What has destroyed liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating all cares and powers into one body . . ."¹¹ The ultimate arbiter of the Constitution, Jefferson explained, "is the people of the Union, assembled by their deputies in convention at the call of Congress or of two-thirds of the States."¹² In short, if some issue of power so agitates the country, let the matter be settled and put to rest by constitutional amendment.

Jefferson rightly discerned that if any body in government could ultimately settle questions of the location of constitutional authority, it would tend to settle them in favor of the government to which it belonged, and ultimately its very own body. In short, the tendency would be to concentrate all authority in one body, and that body would have few or no restraints on its authority. Such a concentration of power would sooner or later be arbitrary and capricious and hence tyrannical. The greatest likelihood of such concentration would be in the general government at the expense of the state governments and the people.

No Judicial Supremacy

And, in the general government, the greatest danger of one branch usurping all power, Jefferson thought and feared, was the federal judiciary, and especially the Supreme Court. Lest it be thought that Jefferson was picking on these courts and denying them their constitutional authority, his full position on the division of power in the federal government should be explained. Jefferson understood that the federal courts had an important role in interpreting the Constitution. In determining which law to apply to particular cases, they must, of course, interpret and apply the Constitu-

tion. The Supreme Court would have the final say on the law—so far the *courts and matters that properly concerned them* were at issue. But its interpretations would have no sway over the other branches as to the meaning of the Constitution in matters that concern them. He explained it this way:

“My construction of the constitution . . . is that each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the constitution in the cases submitted to its action; and especially, where it is to act ultimately and without appeal. I will explain myself by examples, which having occurred while I was in office, are better known to me . . . :

A legislature had passed the sedition law. The federal courts had subjected certain individuals to its penalties of fine and imprisonment. On coming into office, I released these individuals by the power of pardon committed to executive discretion, which could never be more properly exercised than where citizens were suffering without the authority of law, or, which was equivalent, under a law unauthorized by the constitution, and therefore null. In the case of *Marbury and Madison*, the federal judges declared that commissions signed and sealed by the President were valid, although not delivered. I deemed delivery essential to complete a deed, which, as long as it remains in the hands of the party, is as yet no deed . . . , and I withheld delivery of the commissions. They [the courts] cannot issue a *mandamus* to the President or legislature, or to any of their officers.”¹³

In sum, he held that all the branches of government are independent of one another in the sources of their powers and the exercise of them, including each of the houses of Congress. In performing their constitutionally assigned duties, they are the judges of constitutionality. Thus, either house of the Congress may decide that a bill before it is unconstitutional, and refuse to pass it. The bill cannot become law, in that



Monticello, Virginia, home of Thomas Jefferson

case, and the power of all the other branches are impotent to make it otherwise. In like manner, the President, acting within the frame of his office, may veto bills, refuse court orders, and pardon those convicted of crimes. The courts, too, are independent within their realms. Are, then, the members of the legislative and executive branches above the law? Jefferson would have denied that emphatically. They are presumably acting according to their interpretation of the Constitution within their departments as the courts are presumably acting in accord with their interpretation of the Constitution in theirs. The ultimate arbiters or judges of the propriety of acts of the legislative and executive branches are their electors. If in the judgment of those authorized to choose them they have behaved improperly, they may be turned out of office at the end of their terms.

But what about the federal courts? Who would rule on the propriety (or constitutionality) of their acts? There was the rub, as Jefferson saw it, and he was substantially correct. The courts, and especially (always) the Supreme Court, are a law unto themselves, in effect. The appointment of judges is for life during good behavior, if they so desire. They have no fixed term of office, no

time when they must return to their electors for re-election. True, a judge may be removed from office when impeached by the House of Representatives and convicted by two-thirds of the Senate present of "treason, bribery, or other high crimes and misdemeanors." Not only is it quite difficult to get a two-thirds vote from the Senate for conviction, but it is not at all clear that usurpation of power or misconstruing the power of the court under the Constitution is an offense by the above definition.

At any rate, Jefferson doubted that the fear of impeachment was little more than a paper tiger, or as he put it frequently in private correspondence, "not even a scarecrow." He put the danger this way: "We already see the power, installed for life, advancing with a noiseless and steady pace to the great object of consolidation. ["The engine of consolidation," he had said, "will be the federal judiciary . . ."] The foundations are already deeply laid by their decisions for the annihilation of constitutional state rights, and the removal of every check, every counterpoise to the engulfing power of which themselves are to make a sovereign part."¹⁴

"At the establishment of our constitution," Jefferson wrote, "the judiciary bodies were supposed to be the most helpless and harmless members of the government. Experience, however, soon showed in what way they were to become the most dangerous; that the insufficiency of the means provided for their removal gave them a freehold and irresponsibility in office; that their decisions . . . become law by precedent, sapping by little and little the foundations of the constitution, and working its change by construction . . . In truth, man is not made to be trusted for life if secured against all liability to account."¹⁵

Jefferson's great concern, of course, was the preservation of individual liberty. He was opposed to oppression, whatever its source. The great danger to liberty is not simply government itself but concentrated and unrestrained government which can and will ride roughshod over the rights of individuals. "It is not by the consolidation

or concentration of powers," he wrote, "but by their distribution that good government is effected." He could be equally concerned, or nearly so, whether the concentration was wrought by the legislative, executive, or judicial branches. For example, Jefferson complained vigorously in the 1780s about the concentration of powers in the legislative branch of the Virginia government. "All the powers of government," he declared, "legislative, executive, and judiciary, result to the legislative body. The concentrating of these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one . . ." Nor was he in the least relieved that since the legislature was elected, it would be an "elective despotism," so to speak.¹⁶ What was wanted, he pointed out, was a balance of powers by which government would be restrained and limited and individuals would be free.

Even so, over the years Jefferson became ever more firmly convinced that the federal judiciary would be the instrument for concentrating power in the federal government and the reducing of the other branches to subordinate status. He may have been drawn to this conclusion by the long tenure of John Marshall as Chief Justice of the Supreme Court, by his dominance of that body, and by his tendency to interpret the Constitution in such a way as to subordinate the states and enhance the power of the federal government. Be that as it may, Jefferson saw clearly and correctly that the potential of the courts for undermining the Constitution and tipping the flow of power toward themselves was there. He was right that the courts were potentially irresponsible, that it was very difficult, if not impossible, to hold the Supreme Court to account for vagrant opinions. He was right, too, in fearing that the states would be the first to have their independence undermined on the way to the concentration of power. He was on the mark as well in detecting an institu-

tional flaw in the Constitution which gave lifelong tenure to federal judges.

Federal Supremacy

But if his pronouncements be taken as predictions, his timing was well off the mark, at least from our perspective. Actually, they were more like warnings and caution signs than predictions. In any case, it was well into the twentieth century, by my reckoning, before the concentration which he discerned as potentiality came to fruition. Granted, there was a major thrust toward the concentration of power in the Union government during the Civil War and Reconstruction. It was spearheaded by the executive, Abraham Lincoln, that is, and later taken over by Congress during the presidencies of Johnson and Grant. The courts figured hardly at all in this concentration of power. But the concentration did not last much past the end of Reconstruction. Neither Congress nor the Presidents nor the federal courts nor even the United States government was especially dominant over the next two decades or so. The states reasserted their roles and a kind of balance of power was restored to the Union.

The next full-fledged onslaught of the concentration of power came in the 1930s, though it was prefigured by developments just before and during World War I. The Seventeenth Amendment, adopted in 1913, stripped the state governments of their most effective restraining influence upon the federal government. The Sixteenth Amendment, ratified in 1913, and the Federal Reserve Act, passed shortly afterward, prepared the way for the federal government to control the money and banking system and gather the wealth with which to consolidate its dominance. The more or less permanent concentration of power in the federal government began in the 1930s.

Again, however, it was not the federal courts which led the way in thrusting aside the constitutional restraints on the consolidation of power in the 1930s. On the contrary, the courts, and the Supreme Court in particular, carried on a major rearguard

campaign to preserve the integrity of the Constitution, down to 1938, at which point a reconstituted Court knuckled under but still did not take the lead in undermining the Constitution. It was the executive branch, led and prodded by Franklin D. Roosevelt, which pushed to consolidate and concentrate power during the 1930s. Congress became a pliant instrument of the executive branch, forgoing its responsibilities to observe and protect the Constitution, and passing whatever legislation the President thought fit to suggest. Congress did begin to stiffen its spine near the end of the decade, but its efforts were too little and too late.

All this is not to say that Jefferson erred about the consolidating potential of the federal courts. His timing was off but his analysis was right. Under the benevolent domination of Chief Justice Earl Warren, the Supreme Court took the lead in the 1950s and 1960s, and during those two decades it outconsolidated and outconcentrated the executive and legislative concentrators and consolidators of earlier decades. The high court planted its foot on the neck of the state and local governments, took away their independence of action, compelled them to perform their functions under its directives, and removed them entirely as an obstacle to federal power.

The substantive obstacles to the exercise of federal power, and especially by the Supreme Court, had been so far ignored, evaded, and misconstrued by the 1970s that the Constitution no longer served as a restraint on government. Instead, it had been largely reconstrued as the fount of a cornucopia of benefits bestowed upon a dependent people by a government ravenous for the wealth of America and bent upon directing the course of the lives of Americans. Is this oppression? Jefferson would have said so, for he said that concentrated power is by definition oppression. But Jefferson spoke in terms of essences, not existences, of reason, not feeling, and many Americans will not recognize oppression until they feel it. That, too, may come; for many, it already has.

The strange thing is that even though this

vast consolidation and concentration of power has taken place in the twentieth century, the Constitution has been little changed since 1791, and then mainly by the Fourteenth, Sixteenth, and Seventeenth Amendments, and these were only made adjuncts of the concentration, they did not mandate it. The Constitution is still there to be recovered, if we but knew how and had the will to do it.

Since Jefferson thought that the federal courts posed the main threat to the Constitution, his suggestion for amending it addressed only that point. Jefferson proposed that judges have their tenure limited to a fixed term. He said, "Let the future appointments of judges be for four or six years, and renewable by the President and Senate. This will bring their conduct, at regular periods, under revision and probation, and may keep them in equipoise between the governments [state and federal]."¹⁷

A New Check

My own studies of how power became concentrated in the United States (to be published in the forthcoming book, *Basic American Government*) lead me to the conclusion that Jefferson's proposal, which has never been adopted, falls far short of what is now necessary to restore the Constitution. In fact, he was not addressing that problem, for it retained its full vigor during his lifetime. He did foresee the corruption of the executive and legislative branches when the Constitution was undermined. That has indeed taken place. The legislative and executive branches no longer consider it any part of their duty to determine the constitutionality of their acts. They no longer consider much except how far they can go before the courts call a halt. As for the courts, they are more apt to consult the public temper than the Constitution.

It seems to me that in our present condi-

tion, the only means of getting judges, legislators, and executives to consult the actual provisions of the Constitution and to obey the oaths they take to observe its bounds and protect it is to adopt sanctions against its violation or evasion. In sum, it should be made a crime punishable by removal from office for any government officer, including members of Congress, to participate affirmatively in any act not authorized by or in violation of the Constitution. Trial for those accused should be in United States District Courts before a jury charged with determining whether a violation has taken place and a judge empowered to remove them from office. This proposal is more fully developed in my forthcoming book, though even that could benefit by fuller treatment.

At any rate, Thomas Jefferson's insights are still capable of lighting a fire on the 250th anniversary of his birth. They shed a light on the Constitution, our system of government, and remind us that it was adopted to protect individual liberty from oppression, not to justify and sanction it by obfuscatory constructions. □

1. Richard Hofstadter, *The American Political Tradition* (New York: Vintage Books, 1955), pp. 23-24.
2. This is the title of a book in which Jefferson is included.
3. Edward Dumbauld, ed., *The Political Writings of Thomas Jefferson* (New York: The Liberal Arts Press, 1955), p. 55.
4. Dumbauld, p. 76.
5. Dumbauld, p. 55.
6. Dumbauld, p. 138.
7. Frank Irwin, ed., *Letters of Thomas Jefferson* (Tilton, N.H.: Sanbornton Bridge Press, 1975), p. 215.
8. Irwin, p. 40.
9. Dumbauld, p. 153.
10. Dumbauld, pp. 154-55.
11. Adrienne Koch and William Peden, ed., *The Life and Selected Writings of Thomas Jefferson* (New York: Modern Library, 1944), pp. 660-61.
12. Dumbauld, p. 148.
13. Irwin, pp. 215-16.
14. Thomas Jefferson, "The Constitution—Endangered by the Federal Judiciary," *Foundations of Liberty*, James R. Patrick, ed., vol. I (1988), p. 26.
15. Jefferson, p. 27.
16. Quoted in Hofstadter, p. 29.
17. Allen Ellery Burgh, ed., *The Writings of Thomas Jefferson*, vol. XV (Washington: Jefferson Memorial Association, 1907), p. 331.

DO STATE AND LOCAL FISCAL CHOICES MATTER?

by Stephen E. Lile

States differ dramatically in overall levels of taxation and spending, and in the relative use of income, sales, property, and other tax types. They also differ in population and economic growth rates. Whether or not fiscal choices affect economic outcomes is of interest, particularly during a period of slow economic growth such as the present.

Milton Friedman (*Newsweek*, July 12, 1976, p. 58) commented on a study¹ of fiscal differences between Vermont and New Hampshire and observed that "Vermont spends more; Vermont relies more on the state relative to the local community, and Vermont has little to show in return." This note extends Friedman's fiscal comparisons to three pairs of neighboring states—Kentucky-Tennessee, New Hampshire-Vermont, and Oregon-Washington—in an effort to see if there is any systematic relationship between fiscal choices, in particular taxation, and economic vitality as measured by income per capita and net migration.

The chart on the following page shows the latest data available on expenditures, taxation, net migration, per capita income, and growth in per capita income for three pairs of adjacent states. States with low taxes are shown to outperform their high-tax neighbors in terms of income and immigration.

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Tennessee, for example, collects about 13 percent less than Kentucky in state-local taxes relative to state personal income (\$94 vs. \$108). Tennessee's 1990 per capita income is about 6 percent higher. Moreover, because Tennessee and Kentucky had the same per capita income in 1960, Tennessee income growth over the past 30 years is also about 6 percent greater than Kentucky's.

An obvious indicator of a state's economic vitality is whether people are on net moving into or leaving that state. In each of these pairs of states, the low-tax state attracted more people as compared to its high-tax neighbor. Kentucky actually lost 110,000 people during the 1980s, while Tennessee gained 124,000.

Does the correlation between taxation and income/migration demonstrate that low taxes cause growth? No, but taxes influence location decisions of people and businesses and business decisions to expand, if non-tax factors are roughly equal. Non-tax factors are most likely to be similar in the case of neighboring states.

An example based on family tax burdens² illustrates why tax burdens can affect growth. The 1990 tax burden on a Memphis family (\$2,591) with \$45,000 adjusted gross income is about \$1,800 less than the tax burden on a family with the same income living and working in Louisville (\$4,407). This implies that, other things the same, the Tennessee employer has a clear advantage

STATE	State-Local Direct General Expenditure Per Capita 1990	State-Local Education Expenditure Per Capita 1990	State-Local Tax Collections Per \$1,000 of State Income 1990	Broad-Based Income Tax	State-Local Family Tax Burden*	Net Migration 1980-90	Welfare Spending Per Capita 1990	Personal Income Per Capita 1990	Growth In Personal Income Per Capita 1960-90
Kentucky	\$2,607	\$ 917	\$108	Yes	\$4,407	-110,000	\$389	\$15,001	\$13,458
Tennessee	2,605	884	94	No	2,591	+124,000	284	15,866	14,321
New Hampshire	2,963	1,099	83	No	2,121	+118,000	333	20,827	18,753
Vermont	3,600	1,511	122	Yes	2,885	+ 23,000	472	17,511	15,652
Oregon	3,397	1,298	122	Yes	5,465	+ 32,000	337	17,196	14,937
Washington	3,410	1,275	123	No	1,996	+293,000	427	18,775	16,458

Source: U.S. Department of Commerce, *Government Finance, 1990-91*; *Current Population Reports, Series P-25, No. 1058*; *Survey of Current Business, August 1991*; Lile and Philhours, *Interstate Comparisons of Family Tax Burdens for 1990*.

*The sum of state-local income, sales, and homeowner property tax. Assumes residence and employment in largest city of each state, a house value of \$90,000 a family of size four with two wage-earners with combined adjusted gross income of \$45,000. For methodology see Stephen E. Lile and Joel E. Philhours, *Interstate Comparisons of Family Tax Burdens in 1990*, Institute for Economic Development and Public Service, Western Kentucky University, 1991.

over the Kentucky employer because he can pay labor less and still be competitive on an after-tax basis. The migration data for Kentucky (-110,000) and Tennessee (+124,000) suggest that a portion of the benefit from Tennessee's lower tax burden accrued to labor in the form of greater employment opportunities and/or greater after-tax earnings. The differences in family tax burden between Portland (\$5,465) and Seattle (\$1,996) and between Burlington (\$2,885) and Manchester (\$2,121) suggest that a similar argument could be used to explain in part why immigration and income growth in Washington and New Hampshire exceed that in Oregon and Vermont, respectively.

No doubt many variables (some historical) account for why one state enjoys greater prosperity relative to another. The influence of fiscal choices, and taxation choices in

particular, is likely to be greatest in the case of neighboring states because other factors such as climate and location are similar. Policy-makers in high tax states, who might be inclined to dismiss supply-side arguments as they apply to the national economy, might wish to reconsider the role that fiscal choices play at the state-local level where the opportunity for business and families to "vote with their feet" is greater. Both theory and experience seem to suggest that a state's fiscal choices do matter. □

1. Colin D. Campbell and Rosemary G. Campbell, *A Comparative Study of the Fiscal Systems of New Hampshire and Vermont, 1940-1974*, The Wheelabrator Foundation, Inc., 1976.

2. Stephen E. Lile and Joel E. Philhours, *Interstate Comparisons of Family Tax Burdens for 1990*, Institute for Economic Development and Public Service, Western Kentucky University, 1991.

What Is Seen and What Is Not Seen

Have you ever heard anyone say: "Taxes are the best investment; they are a life-giving dew. See how many families they keep alive, and follow in imagination their indirect effects on industry; they are infinite, as extensive as life itself"?

The advantages that government officials enjoy in drawing their salaries are *what is seen*. The benefits that result for their suppliers are also *what is seen*. They are right under your nose.

But the disadvantage that the taxpayers try to free themselves from is *what is not seen*, and the distress that results from it for the merchants who supply them is *something further that is not seen*, although it should stand out plainly enough to be seen intellectually.

When a government official spends on his own behalf one hundred *sous* more, this implies that a taxpayer spends on his own behalf one hundred *sous* the less. But the spending of the government official is *seen*, because it is done; while that of the taxpayer is *not seen*, because—alas!—he is prevented from doing it.

—FREDERIC BASTIAT

IDEAS
ON
LIBERTY



THE COSTS OF TAX AND SPEND

by John D. McGinnis

In 1992, Americans worked from January 1 to May 5 just to pay their taxes. According to the Tax Foundation, this portion of the calendar year represents the portion of their total income Americans, on average, pay in taxes. But the whole truth about taxes and spending, however, is much worse than this.

The Arithmetic

Tax Freedom Day is calculated by adding up all the taxes paid (income taxes, sales taxes, property taxes, corporate taxes, social security taxes, user-fees, and so on) and dividing by the total income of individuals. This result, approximately 34 percent, is then applied to the calendar year and becomes that portion of the year in which individuals work for government. The remainder of the year after Tax Freedom Day is the time individuals work for themselves. As simple and straightforward as this calculation is, and as intuitively appealing as it is, it significantly understates the amount of government in our lives and consequently overstates the amount of freedom we have.

To begin with, the calculation does not include regulatory requirements, compliance costs, the liabilities of government-

sponsored enterprises, and inflation. Regulations are, of course, one of the government's ways of making citizens incur costs without being taxed directly, but the effect is the same as taxation—earnings are used to enforce government policies. Compliance costs are those that individuals incur in filling out tax forms, consulting tax accountants, maintaining records, keeping up with the tax code (is it possible?), or anything else required in following governmental mandates. The tax-accounting industry absorbs many billions of dollars—this is only part of the compliance costs that fall on the shoulders of citizens.

Inflation, too, is a tax. It is the national government's way of paying for projects without explicitly taxing its citizens, but it is no less a burden. Inflation is the result of government creating money. The chief impetus for the national government to inflate is its desire to spend more than it takes in. (A second impetus is the fact that inflation helps borrowers at the expense of lenders. The public sector, of course, is a net borrower while the private sector is a net lender.) When the government pays for projects by creating more money, the result is a decrease in the purchasing power of individuals. The cost of this government-created inflation in terms of decreased purchasing power can be staggering. An inflation rate of just 3 percent (considered tame by recent standards) means an annual de-

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crease in the purchasing power of private Americans of \$180 billion. This could represent as many as ten additional days of work for all Americans to cover the government's hunger for spending.

The Tax Freedom Day calculation also does not include borrowing by governments at the federal, state, and local levels. Not only does the government spend all income earned up until May 5, but it continues to spend more by increasing the liabilities of its citizens. Some might argue that the incurred liabilities are offset by the assets purchased with the borrowing, but this is no less so with the taxes we pay. Government borrowing is every bit an infringement on our economic freedom as taxation. If it weren't, why wouldn't we finance all of government by perpetual debt and remain forever free? An important lesson of finance applies here: How we finance expenditures, whether corporate projects or government programs, is much less important than the choice of those expenditures. When government borrows our money or takes it directly through taxes or indirectly in ways mentioned above, the net effect is the same: The government, not individuals, decides how earnings are spent. This diminishes freedom.

So how do we add all this up? How much of the people's earnings is government taking? Milton Friedman has suggested one way to get an estimate: Begin by adding up all the expenditures of government at the federal, state and local levels. In the current fiscal year, this is about 47 percent of gross domestic product, which means that 47 percent of what the average American earns is going directly to the government. Now add in regulatory costs and compliance costs as well as off-budget items such as expenditures for federal agencies. I have no accurate way of estimating these, but totaled with direct taxes it becomes apparent that *the average American is working more than half of the year for government and less than half of the year for himself*. Cato the Elder was right — "A king is an animal that lives on human flesh."¹

The Consequences

The costs of such an onerous tax burden are less obvious, yet no less severe and exacting, than one might think. The national debt and the budget deficit get attention as causes of impending economic doom. The real problem is not debt-financing of government enterprise, but government enterprise itself. Even if the government had no debt, there could be great costs to its operation. We would, for instance, have a federal government with expenditures of 30 percent of gross domestic product, and if tax collections equaled 30 percent of gross domestic product there would be no debt. Nevertheless, the opportunity cost of such large expenditures by government is enormous. As Adam Smith observed: "The industry of the country, therefore, is thus turned away from a more, to a less advantageous employment, and the exchangeable value of its annual produce, instead of being increased, according to the intention of the lawgiver, must necessarily be diminished by every such regulation."²

It is often commented that deficit spending crowds out investment by the private sector. This is true enough: Funds lent to the government mean fewer lendable funds for the private sector. However, it is no less true that money spent by the government (whether by borrowing or through tax revenues or printing more money) means less spending and investment by the private sector. Hence, all government spending, however financed, crowds out private enterprise. It also sacrifices market decisions and all the knowledge that the market brings to bear, in favor of decisions made by politicians, whose motivations may be questionable, and whose wisdom is necessarily inferior to the market. Again, Adam Smith says it best: "Great nations are never impoverished by private, though they sometimes are by public prodigality and misconduct."³

The issue then is not how we finance government, but the size of government. The larger the activity of government, the greater the cost to society, regardless of the

amount of government debt. A society which aspires to be free surely must admit that control of over half of its product by government is a serious problem. How much liberty exists in such a situation? How much of our lives is spent complying with the dictates of the IRS and other governmental bureaucracies? How much of our lives is taken directly from us when we are allowed to keep only half of what we produce? How much is lost for the present and the future by the usurpation of our personal sovereignty by government?

It has been claimed that there is a cultural war going on in America. In truth, that battle is part of a larger conflict, the war of public sector versus private sector. Currently, the public sector appears to be winning. It is growing much faster than the private sector and its growth insidiously retards private enterprise. The situation is worse than Tax Freedom Day implies and we need to be aware of this. We need also to be aware of the power of freedom. As Adam Smith said:

The natural effort of every individual to better his own condition, when suffered to exert itself with freedom and security, is so powerful a principle, that it is alone, without any assistance, not only capable of carrying on the society to wealth and prosperity, but of surmounting a hundred impertinent obstructions with which the folly of human laws too often incumbers its operations; though the effect of these obstructions is always more or less either to encroach upon its freedom, or to diminish its security.⁴

An economic environment where freedom is being supplanted by political control is one with the highest opportunity cost. That is what makes the fight for freedom so important. □

1. Quoted by Plutarch in *Makers of Rome* (New York: Penguin Books, 1965), p. 128.

2. Adam Smith, *The Wealth of Nations* (The University of Chicago Press, 1976), edited by Edwin Cannan, Vol. 1, p. 479.

3. Smith, Vol. 1, p. 363.

4. Smith, Vol. 2, pp. 49–50.

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BOOKS

Adventures in Porkland: How Washington Wastes Your Money and Why They Won't Stop

by Brian Kelly

Villard Books • 1992 • 272 pages • \$23.00

Reviewed by John Attarian

This concise, angry, intensely readable result of a year's investigation of Congress should rouse every taxpayer's rage. A \$19 million study of cow flatulence; \$80 million for Steamtown, USA (a national railroad museum in Scranton, Pennsylvania); \$2 billion each for two useless waterways in Alabama and Louisiana—Brian Kelly's catalog of "pork" (federal money spent by Representatives and Senators for their own constituents) is outrageous. So is the way legislators sneak these boondoggles into appropriations bills, and squash attempts by "porkbusters" to stop it.

Since the House of Representatives was designed to be closely attentive, thanks to two-year terms, to the interests of voters in Congressional districts, the possibility for pork was built into the system. As America grew, so did possibilities for pork, which is now running hog wild. The 1987 highway bill had 152 pork projects costing \$1.3 billion; 1992 highway spending included 480 projects costing \$5.4 billion. Kelly puts the 1992 budget's total pork at \$97 billion.

Pork transcends party and ideology; free-spending Democrats like Senator Robert Byrd (who brought West Virginia \$2 billion in pork in two years) are matched by Republicans like Senator Alphonse D'Amato (known as "Senator Pothole" for getting public works pork for New York) and Representative Joe ("Steamtown") McDade. "Fiscally conservative" Congressmen both

accommodate and emulate porkbarreling colleagues.

The President has power to fight pork, but Kelly reveals George Bush as a weakling not above his own election-year porkbarreling. Former Budget Director Richard Darman comes off even worse: a Machiavellian pragmatist who greased the 1990 budget pact by horsetrading with Byrd, swapping pork for "spending caps."

Congressional greed bears much blame for pork, but Kelly rightly fingers the public as the real culprit. Congressmen bring pork home because voters want government to care for them at others' expense, and reelect politicians who do it.

Is pork bad? "It depends on what you think the federal government is supposed to do for you and everyone else in the country . . . Evaluating pork requires you to ask some fundamental questions: Should the federal government *really* be doing this? . . . Just because a project or program sounds like a good idea, can we *afford* to do it? Just because it doesn't seem to cost me anything, is it *really* free?"

Kelly suggests voting porkbarreling incumbents out (good idea!); a balanced-budget amendment; a line-item veto; term limits; more vigorous Presidential leadership; a re-thinking of government's proper role; and a nationwide decision to forsake pork (my favorite).

Adventures in Porkland reveals a fatal flaw in the mixed economy: It is all too human for voters to want government to spend money on them, and politically sensible for politicians to do so, but the results are ruinous: a population addicted to handouts, a corrupt politics, an overspending legislature, and an economy enfeebled by the resultant debt burden. The only solution is to rout the paternalist philosophy of government, and *Adventures in Porkland* provides valuable ammunition for the fight. □

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Grand Theft and Petit Larceny, Property Rights in America

by Mark L. Pollot

Pacific Research Institute for Public Policy,
177 Post Street, San Francisco, CA 94108
1993 • 222 pages • \$21.95

Reviewed by Grant Thompson

For those who, like myself, are uninitiated in the intricacies and nuances of legal history, the language of the Fifth Amendment is straightforward: “nor shall private property be taken for public use, without just compensation.” Mark Pollot’s *Grand Theft and Petit Larceny* explains how courts gutted this seemingly explicit clause.

As an attorney in the Reagan White House, Pollot drew up an executive order that attempted to curb federal takings of private property. Although a discussion of his role might have been interesting, Pollot is too disciplined a writer to stray into politics.

Instead he limits himself to a thorough, if sometimes plodding, account of legal precedent and theory. Pollot defines a “taking” as interference with any portion of a property owner’s rights, and notes that constitutional history and common law support this view. Reaching back to Magna Carta, he discusses the rationale for property rights and demolishes the contemporary myth that they are somehow inferior to other rights.

Justice Potter Stewart wrote, “property doesn’t have rights, people have rights . . .” Pollot shows that in the minds of the founders, property rights were, if anything, more fundamental than other rights. Without the ability to be secure in one’s person and possessions, all rights would be meaningless. Freedom of speech and religion, for example, mean little if the government can confiscate printing presses and churches.

The founders recognized this truism through hard experience. First under British rule and subsequently under the Articles of Confederation, Americans found themselves hounded by government interference at every turn. The founders scuttled the

Articles largely because state legislatures were blocking commerce, meddling in private contracts and succumbing to every sort of special interest. Yet today’s courts regularly accept such legislative mischief.

The judiciary justifies this abdication of its responsibility with a bewildering array of sophistries. Modern court rulings often border on self-parody. For example, the courts have justified uncompensated takings because:

- the owner knew when he purchased property that the government might, in the future, ruin it through regulation;
- a builder was already compensated for harsh regulations because the government had “allowed” him to build in the first place;
- the builder was already compensated because the government granted him the privilege of using other properties as he wished;
- enforcing the Constitution would be too expensive.

Although Pollot limits his discussion to takings, he provides insights into other issues as well. For example, in a discussion of the founders’ suspicion of legislatures, Pollot shares the following quote from James Madison: “If this spirit [that nourishes freedom] shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to accept everything but liberty.” As Pollot notes, this is an especially telling statement considering that today’s Congress exempts itself from dozens of laws, such as the Civil Rights Act of 1964 and the Occupational Safety and Health Act.

Pollot carefully dismantles the argument that paying compensation for takings would prevent vital regulations. First, if a regulation is truly vital, then the public can afford to shoulder its cost. Either a regulation’s benefit is greater than its cost, in which case society reaps a profit even after paying compensation; or, a regulation’s benefit is not greater than its cost, in which case the regulation should be discarded.

Second, as Pollot points out, courts must rule on what’s constitutional, not what’s

convenient. Trial by jury is costly; should this constitutional safeguard also be discarded?

Pollot pulls a quote from the constitutional convention to make a third point:

It is natural for men, who wish to hasten the adoption of a measure, to tell us, now is the crisis—now is the critical moment which must be seized, or all will be lost: and to shut the door against free enquiry. . . . This has been the custom of tyrants and their dependents in all ages.

In today's atmosphere of environmental hysteria, this admonition is particularly valuable.

Pollot offers a four-pronged strategy to restore property rights: education, participation in the legislative process, participation in the administrative process, and litigation. As a tactic for restoring property rights, litigation presents a disproportionate share of both risk and potential. Recognizing this, Pollot sets aside a separate chapter to discuss the limits and possibilities of litigation.

Unfortunately, Pollot's stiff prose sometimes obscures the absurdity of modern court rulings. In *Berman v. Parker*, for example, the court refused to consider some issues because to do so "would result in courts deciding what is and what is not a governmental function." Reflecting on this staggering assertion, Pollot intones, "the difficulty with this statement is that determining such functions is precisely the role of the courts under the provisions of the Constitution and the Bill of Rights."

Pollot's restraint adds credibility to his work, but tends to cramp his writing style. In the introduction, Pollot confides that "the pleasure I ordinarily derive from writing . . . was singularly lacking when I wrote this book," and adds that writing "about the daily violation of civil rights" is burdensome.

Nevertheless, Pollot's book is well constructed and packed with information. It concludes with an afterword that makes sense of several recent Supreme Court cases. Those who wade through this

sobering and useful work will be glad they did. □

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Official Lies: How Washington Misleads Us

by James T. Bennett and
Thomas J. DiLorenzo

Groom Books, 1800 Diagonal Road, Suite 600,
Alexandria, VA 22314 • 1992 • 330 pages
\$19.95

Reviewed by William H. Peterson

“An honest politician is a contradiction in terms,” Frank Chodorov said repeatedly. Chodorov was sharp on the devious ways that governments use to shape public opinion, to win friends and influence people on behalf of the state machine, to set back the cause of human liberty.

This sharpness is the purport of Professors Bennett of George Mason University and DiLorenzo of Loyola College in Baltimore in their hard-hitting and most worthwhile book. They contend that the federal government, no matter which party is in power, incessantly manipulates opinion and subverts, if sometimes inadvertently, both truth and democracy.

Such subversion is anything but benign. The Old Testament warns us: “Put not thy trust in princes.” The two professor-authors observe how Alexis de Tocqueville in *Democracy in America* was concerned about the power of government to inculcate a “new servitude” in the people. Wrote Tocqueville in 1835, as quoted here: “Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to little better than a flock of timid and industrious animals, of which the government is the shepherd.”

Similarly Professors Bennett and

DiLorenzo note how Hayek argued that extensive government controls can produce "a psychological change, an alteration in the character of the people." Nobody can seriously argue that controls in America from Social Security to antitrust, from credit expansion to minimum wages, from affirmative action to so-called environmental protection, and so on are not extensive. It follows that government propaganda on behalf of these controls serves to undermine individual freedom and that citizens need to read books such as *Official Lies* to alert them to the danger.

What lies? Take the one that governments can dispel ignorance and educate people, including the young. The authors wonder about this contention in the face of the fact that the "free" public school in America is essentially a monopoly financed by compulsory taxation and secured by compulsory-attendance laws. Others laws reinforce that monopoly. The authors note, for example, that a Texas state law states that textbooks "shall not contain certain material which serves to undermine authority."

Professors Bennett and DiLorenzo see that virtually all textbooks in civics or American government throughout the land clothe government in almost saintly garb. Its servants are selfless, public-spirited bureaucrats and politicians whose only aim in life is to serve mankind in general and America in particular. They cite the widely used *American Government* by Mary Turner, Kenneth Switzer, and Charlotte Redden, who find Congress an "effective" branch of government whose hallmarks are diligence and sobriety.

In like manner Professors Bennett and DiLorenzo take on the green lobby in and out of the government, a lobby whose daily propaganda hammers out the message that the sky is falling, that ozone depletion, global warming, acid rain, overpopulation, toxic wastes, and the like will soon wipe out the human race apart from the spotted owl. They analyze some of the misstatements and misconceptions in reports like the Club of Rome's *Limits to Growth* and the Carter Administration's *Global 2000*. Employing

some of the analysis of economist Julian Simon, the authors say the nightmarish projections of *Global 2000*, now only seven years away, do not bear the stamp of objective science but are instead "the prejudiced opinions or even the hunches of a small number of government employees."

James Bennett and Thomas DiLorenzo deserve credit for cutting through the steady fog of misinformation and disinformation emanating from the nation's capital. Their readers will profit from their lively book on official deception. □

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Patient Power: Solving America's Health Care Crisis

by John C. Goodman and
Gerald L. Musgrave

CATO Institute, 224 Second Street, S.E.,
Washington, D.C. 20003 • 1992 • 672 pages
\$16.95 paper

Reviewed by Ross Korves

For the past 50 years, public policy on health care in this country has led to the concentration of power in the hands of bureaucracies, both public and private. Consumers pay directly for only about 20 percent of the cost of care. Governments pay directly for 40 percent of the care received. Of those people who have private health care plans, over 90 percent have employer-based plans where individuals have little say in the choice of plans. Medicare and state government regulations delineate in minute detail how health care providers are to render care. The Food and Drug Administration has complete control over which drugs are allowed on the market and what conditions can be treated. The health care delivery system looks much like

the failed centrally planned economies of the old Soviet Union and Eastern Europe.

Many serious students of health care policy have concluded that the only ingredients necessary to solve the current health care problems are more government regulations, more government spending and less consumer choice. Two health care policy experts have arrived at a sharply different conclusion. John C. Goodman and Gerald L. Musgrave have clearly laid out the arguments for allowing individuals to make decisions about financing and receiving health care. *Patient Power: Solving America's Health Care Crisis* is an important book to read to navigate the maze from our current system of bureaucratic power to a system based on patient power.

At 672 pages, only the most dedicated soul would attempt to read the entire book. The 21 chapters are written so that each covers a specific topic and can stand alone. The book provides good background for how the current system developed with chapters like "How the Cost-Plus System Evolved" and "National Health Insurance in Other Countries." The route out of our mess can only be understood by looking at how we got into it. Other chapters like "Moving Toward the Ideal: An Agenda for Change" and "Privatizing Medicare with Medical IRAs" deal with the needed changes.

The authors use the first sentence in the preface to define the message, "The thesis of this book is simple: If we want to solve the nation's health care crisis, we must apply the same common-sense principles to medical care that we apply to other goods and services." More than 650 pages later in the conclusion, they are still stressing the same point, "The assumptions of the advocates of greater government control are false. Self-interested behavior is a normal and natural characteristic of human beings. Socialism does not work in health care any better than it does in any other market."

In a normal market system the pursuit of self-interest results in the needs of others being met at the same time. In the government-regulated health care market, the outcome is much different. "The result is a

marketplace in which the pursuit of self-interest often does not solve problems, but creates them instead."

Goodman and Musgrave are not new to the health care policy debate. Goodman, president of the National Center for Policy Analysis in Dallas, Texas, has spent much of the past 20 years researching and writing about the failure of government-run health care plans and how markets could deal with health care delivery and financing problems. Over the past ten years, Goodman and Musgrave, the head of an economic consulting firm in Ann Arbor, Michigan, have collaborated on many studies that formed the basis for much of the book.

The key element of their reforms is equity in taxation by permitting all taxpayers to purchase a health care plan and have medical savings accounts to pay small medical bills out of pocket. "To give all people the same economic incentives to purchase health insurance, premiums paid by employers should be included in the gross wages of their employees, and all taxpayers should receive a tax credit equal to, say, 30 percent of the premium." The allowable health plan deduction or credit would be limited to a premium for no-frills, catastrophic health insurance.

The arguments for permitting auto assembly line workers and school teachers to control their health care decisions and financing are fairly easy to grasp. Goodman and Musgrave go beyond that by looking at how to privatize Medicare. They also propose to decentralize Medicaid, move the decision-making to the community level, and allow private charitable organizations to bid on providing services to low-income people.

Near the end of the book is a chapter on "The Politics of Medicine" which primarily describes the politics of medicine in countries that have government-run health care. For those readers who are not familiar with "public choice" economics, the first part of the chapter provides an excellent overview of why politicians from different parties often support the same public policies. Several additional readings are also suggested.

That chapter alone is worth the price of the book and has implications far beyond health care.

While Goodman and Musgrave have many proposals to reform health care policy, they never lose sight of the fact that markets are always evolving in ways that we cannot anticipate. "The most that politicians can do is change the rules of the game. Once the rules have been changed, the tedious process of replacing cost-plus institutions with market-based institutions can begin. But the process of change must itself be market-oriented—brought about by millions of people pursuing their own self-interest."

Patient Power is a powerful message that needs to be heard in the current policy debate on health care. □

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What Has Government Done to Our Health Care?

by Terree P. Wasley

CATO Institute, Washington, DC • 1992
163 pages • \$19.95 cloth; \$10.95 paper

Reviewed by Gerald Musgrave

Never before has so much relevant information and clear explanation of health economics been condensed into such a thin volume. If every Congressman were to read this book on a flight home, America would have much less to fear from the Clinton administration.

Ms. Wasley's references are a virtual "Who's Who" in market approaches to health care. She includes a sprinkling of the usual villains, but uses them as strawmen or foils for her analysis. The book faithfully condenses the analyses and approaches being developed and used by the new market-oriented health economists. Under the old approach, markets are to be manipulated. That conventional wisdom is to prescribe

1950s-style social engineering masked by 1990s-style politically correct rhetoric of "Global Budgets" and the oxymoron of "Managed Competition." After reading this book, one would certainly know that free market, deregulatory approaches to health care financing have merit.

The book contains the best synopsis of the history of twentieth-century health care. Not one in 100 health economists knows that World War II price and wage controls are an important cause of today's problems. To dampen the problem caused by wage controls, in 1942 the War Labor Board ruled that fringe benefits in the form of health insurance would not be considered inflationary, and thus not controlled. Enrollment in group hospital insurance grew from less than seven million to about 26 million from 1942 to 1945 and marginal income tax rates rose from about four percent to 23 percent. Employers could launder wages through insurance companies. That is, the normal health expenses we all have could then be consumed with pre-tax dollars at a saving of 23 percent. Today, with total marginal tax rates being over 50 percent (federal, Social Security, Medicare, and state), it is not surprising that most of us obtain health care via employer-purchased "insurance" rather than our own personal and portable coverage for catastrophic situations, and why we don't self-insure for small bills. Many other historical issues are covered, but the treatment of this one is superb.

The book covers the slippery slide to nationalized health care. It is an interesting and thought provoking analysis. Ms. Wasley's thumbnail sketches of foreign systems should give any thoughtful person hesitation about grafting an alien approach to an American culture.

A final section introduces what is called "Health Care Based on Consumer Choice." No one blames farmers for hunger, or carpenters for homelessness, and the author does not blame health care suppliers for the other-than-utopian treatment of illness. She presents the major free market approaches to health care financing such as medisave accounts. She also offers deregulation, in-

cluding the elimination of costly and wasteful mandates. For example, some states require that treatment by chiropractors and herbal healers, care for the "accidental" smoking of crack, and payment for items such as toupees be covered in all insurance policies.

If only one Senator understood and fought for the ideas in this book, there would be hope that Teddy Kennedy would be denied his lifetime dream of socialized medicine. If that happened, this book would become a modern classic. □

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We Hold these Truths

by Lawrence Patton McDonald

The Larry McDonald Memorial Foundation,
P.O. Box 745, Marietta, Georgia 30061 • 170
pages • \$18.95, \$11.50 paperback

The first edition of this book appeared in 1976 as both a bicentennial tribute and reminder to the American people of their ideological origins; this revised edition was published in 1992. Its 21 chapters are an excellent introduction to the theory and history of American constitutional government.

Dr. Larry McDonald wrote the book while he was serving as a Congressman from Georgia, several years before he and 268 others on a South Korean jetliner were killed by the Soviet Air Force in 1983. This new edition contains the texts of both the Declaration of Independence (and its signers) and the Constitution (and its amendments), as well as two tributes offered at Congressman McDonald's memorial service.

Congressman McDonald's discussion of social security discloses both the strength of the man and the book:

For more than half a century, most leading politicians and other government

officials have lied to the people about social security insurance. Government sold the people on the idea that they were buying a good, cheap insurance policy which would be honestly administered by government. . . .

But the government program was never insurance. It laid payroll taxes aside in a trust fund of government debt—not as a reserve to pay long range liabilities, but as an emergency reserve to use in years when social security taxes fell below social security benefits. Private insurance operators doing that sort of thing would be prosecuted. . . .

Why would politicians lie to the people? Because social security has always been the mother lode of political ore for politicians to mine. For more than five decades they have been buying votes for themselves with promises to improve the social security system by increasing its benefits and allowing more people to participate. . . .

We Hold These Truths would make an excellent text for high school government classes or homeschoolers. —JR

The Right Guide: A Guide to Conservative and Right-of-Center Organizations

Edited by Wilcox, Shackman, and Naas

Economics America, Inc., 612 Church St.,
Ann Arbor, MI 48104 • 444 pages • \$74.95.

This is a useful encyclopedia of libertarian and conservative organizations. It is cross-referenced and indexed in a dozen different ways, and includes both U.S. and foreign organizations. The *Guide* is praised by Robert Hessen, William E. Simon, William A. Niskanen, and Julian Simon, among many others. It should be useful for libraries and public policy organizations that are interested in cooperating with other like-minded groups. —JR