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The Evolution of the Property Tax: 
A Study of the Relation between 
Public Finance and Political Theory

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The property tax has perplexed and frustrated economists for decades, and for most of this century it has been denounced as an unjustifiable relic of the Middle Ages, which has unaccountably survived into modern times. The property tax is in fact the oldest tax in any modern system of public finance, and because of its age it has been associated with both modern and premodern tax philosophies. This essay explores the political context of the property tax in its medieval and modern settings—i.e., before and after the seventeenth-century revolution in political philosophy that gave birth to liberalism and “political economy.” That revolution altered our understanding of the purpose of the state, bringing corresponding changes to our understanding of public finance. The modern property tax is a legacy of that revolution.

But the modern property tax is mostly a legal facade, concealing a very different tax behind it. The de facto property tax, made possible by decentralized administration and by informal and illegal assessment procedures, carries forward into modern times much of the tax in its premodern form. When Seligman and other economists denounced the property tax as “medieval,” therefore, they were more right than they knew. It is argued here that many of the problems associated with contemporary property taxation are traceable to this confusion between the “legal” and the “real” property taxes, and that the public might be better served by a tax openly based on premodern principles.

Economists and the Property Tax

Long before it achieved its present status as the tax voters love to hate, the property tax occupied a significant place in the literature of public finance. The enormous volume of property tax literature produced over the past fifty years is in fact something of a puzzle, and is in no way justified by the institution’s fiscal importance. Since the beginning of this century, the property tax has supplied a steadily dwindling percentage of the total public revenues of the United States, and is now entirely overshadowed by other taxes. Nevertheless, once every decade or so there is a renewed interest in the subject, and with each renewal comes a new generation of
studies devoted to property taxation—mostly to its denunciation and to schemes for its reform.¹

One theme unites this literature: bewilderment that the property tax has survived into modern times. Sooner or later most of its students come to the conclusion that E. R. A. Seligman reached in 1895:

In the first place we must disabuse ourselves of the idea that property as such owes any duty to pay taxes. The state has direct relations not with property, but with persons. It is the individual who, from the very fact of his existence within the state, is under definite obligations toward the state, of which the very first is to protect and support it. Every civilized community professes to tax the individual according to his ability to pay . . . . But is property the true test of ability?

No, said Seligman; it is income that determines ability, and since Seligman’s time economists have been nearly unanimous in condemning the property tax for its lack of a sound theoretical justification (Seligman, 1895, pp. 54, 17-18).

Yet (to repeat a phrase common to these discussions) it persists. The property tax is the horseshoe crab of revenue devices: primitive, puzzling, but perfectly adapted for survival.

Shaped in a world very different from our own, the property tax long ago outlived its strictly economic rationale. It did so (as Seligman showed) the moment property in land lost its place as the chief form of wealth. As property then split into distinct components—tangible and intangible, personalty and realty, agricultural, commercial, residential—the property tax became even more obnoxious (Seligman, 1895, p. 16). Yet so tenacious has the institution proven to be that in recent years economists have abandoned their century-old struggle to abolish it and have come to accept the property tax as an inevitable part of the American tax system. Some have even developed a modest enthusiasm for it (Netzer, 1976, pp. 223-33; Shannon, 1976, p. 216; Buehler, 1967, pp. 5-17).

It is not my purpose here to explain the survival of property taxation, but only to inquire into the political ideas that have been connected to the tax over the long course of its career. Economists have their own explanations for the longevity of property taxation, and there is no need to add to what they have done. Its age alone is one key to its survival: “an old tax is a good tax” both because an old tax has a deep reservoir of public acceptance and

because the older a tax is, the greater the disturbance caused by its replacement (Netzer, 1966, p. 212). Furthermore, the property tax has recently been a lucrative source of revenue for municipal governments (even while declining as a percentage of total government revenue). Economists point out that the market value of real estate has increased as fast as, and sometimes faster than, G.N.P. or personal income, especially since the Second World War (Netzer, 1966, p. 11). This increase in the base of the tax is the underlying economic cause of the dramatic rise in property tax revenues over the same period: from roughly four-and-a-half billion dollars in 1945 to nearly seventy billion dollars in 1980.²

But economic arguments do not tell the whole story. Property taxes have not survived everywhere, and they have been abandoned in many countries even in the face of rising property values. The property tax remains an important source of revenue only in the English-speaking world.

Most interesting of all, however, the property tax has demonstrated a remarkable consistency over a very long stretch of time. It began as a way of measuring obligation—first of those who used the land (whether as lords or tenants) and then, less successfully, of those who possessed newer forms of property such as manufactured goods, luxuries, and intangible claims on wealth. After centuries of use, abuse, experiment, and reform, the property tax retains much of its original shape as a levy on the users of real estate. It continues to express the very old idea that property, especially land, places a burden of obligation on those who use it—although, as we shall see, the modern property tax has been complicated by its identification with a very different and much newer set of ideas. Consequently, no understanding of the tax will suffice that does not attempt to recapture its tangled history.

That effort will take us far beyond the origins of modern political and economic reasoning, which have a common root in seventeenth-century England. At the birth of modern social theory, the property tax was already an ancient institution, and it drew the attention of nearly all of the founders of modern liberalism. These theorists, diverse as were their views on other questions, achieved a remarkable unanimity on the subject of the

² A few comparisons might be helpful here. In 1946, the property tax generated $4.9 billion; in 1981, it produced $75 billion, nearly all of it for local governments (Historical Statistics, Series Y51; Statistical Abstract 1984, table 453). Despite its declining role in the total system of public finance, the property tax has held its own as a source of local revenue. In 1981 it supplied 65 percent of the own-source revenue of local governments—compared to 76.1 percent in 1927—and 32.9 percent of total local revenue—compared to 68.9 percent in 1927 (Historical Statistics, Series Y76, 800, 805; Statistical Abstract 1984, table 452). Not until the mid-1970s did state and federal aid surpass property tax revenues in the accounts of municipal governments. In 1981 property tax revenues were 17.3 percent of total municipal revenue while federal and state aid combined were 28.3 percent. The percentages for 1970 were 27.9 percent and 24.2 percent, respectively (Statistical Abstract 1984, table 481).
property tax: it was a relic of a vanished age. By the early nineteenth century, when liberalism achieved its great triumph in Britain and the United States, the accumulating criticisms of the tax had worked a noticeable change in the way citizens and statesmen thought about the institution.

That they did not work any comparable change in the institution itself is the mystery this essay sets out to explore. But first it will be necessary to go back to the beginning, if only briefly, to consider the late medieval social order that gave birth to the “modern” property tax.

THE MEDIEVAL PROPERTY TAX

A tax has two kinds of political importance: it supplies the revenue needs of the government; and it embodies in a concrete way the citizen’s obligation to supply those needs. Or to put it another way, a tax reveals the meaning of legitimacy in a given community at a given time: what it is considered legitimate for the government to do; and what it is considered legitimate for the government to demand of its subjects. Since governments do not collect revenue randomly, but according to their sense of what they can “get away with,” they are forced to walk a boundary between what is permissible and what is not. And while any government might stray across the boundary briefly, its tax policies, over time, tell us where the boundary is. Lasting changes in tax policy are a sign that a government has either expanded its credit or suffered a loss.3

Seligman said that the property tax is the most primitive of all taxes, but this requires two qualifications: first, while the property tax may be the first

3 The concept of “credit” is taken from de Jouvenel, 1962, pp. 95-118. There is a contrary view, associated with the “public choice” school of economics, which holds that governments are “revenue maximizers,” purely and simply. But this view seems too static. For one thing, it does not tell us how a government “maximizes” revenue; i.e., how does it persuade citizens to part with their money? One answer is coercion. But history is filled with governments that fell because they tried to impose intolerable burdens on their citizens. Nor can this view account for the differences among governments in the size of the tax burden or in the forms of taxation. Finally, the revenue-maximizing theory ignores the crucial dimension of purpose. Since taxes cannot simply be coerced (beyond a certain threshold) it matters a great deal what citizens think of the purposes for which taxes are sought. The British Stamp Tax of 1765 was a relatively small burden. Designed to raise only £60,000, it imposed a direct tax on purchases and transactions which ranged, in most cases, from a few pennies to a shilling. But it was the first direct tax imposed on the colonies; the consent of colonial legislatures was never sought; the tax was administratively complex and inconvenient; and its revenues were to be used for a suspect purpose—the maintenance in the colonies of a British army of 10,000 men, a force many colonists had come to see as an army of occupation (Weslager, 1976, pp. 21-57). A more recent example is the Johnson administration’s reluctance to raise income tax rates to finance the war in Vietnam, a reluctance wholly due to the president’s judgment (whether accurate or not) that the public would not approve of such an increase, for such a purpose. For an exposition of the public choice thesis, see Brennan and Buchanan (1979, pp. 11-22); and Buchanan (1967).
tax, it is not the first form of enforced public obligation; and second, in the English tradition (upon which the following history is based) property was not as important in determining public obligation generally as were other, less quantifiable factors.

It is a useful simplification to say that in former times property was simple but obligation complex. In the Middle Ages, "property" was almost exclusively land and the fruits thereof, but obligation came in many forms, reflecting two general principles. One principle was feudal: obligation was seen to be a consequence of rank. The other principle was corporate: obligation was seen to be a consequence of membership, as in a guild, town, or parish.

When we look for a medieval tax system what we find, in the beginning, is not a collection of things upon which taxes were levied, but a constellation of duties, among which were a bewildering variety of payments and services, each appropriate to a particular circumstance, locale, or class of subjects.

"Let the heriots be as it is fitting to the degree"—this eleventh-century statute of King Canut suggests the temper of medieval taxation (Cave and Coulson, 1965, p. 362). To describe accurately a subject's rank was to determine the extent of his debt to his sovereign. "Originally the tenant made his lord a gift, a donum, the amount of which should be commensurate with his importance" (Mitchell, 1951, p. 111). These gifts consisted at first of crops, livestock, and other agricultural goods, as well as services, principally military service; over time they were transformed into cash payments in the form of quitrents (Jewell, 1972, pp. 89-90).

The principle of membership, on the other hand, was embodied in the "corporate levy," by which the king extracted payments from urban free-men who stood outside the feudal ranks. Each town agreed, usually as a condition of receiving a royal charter, to specified payments and services. Towns, for example, owed the king military service as well as cash payments and other forms of tribute. The amount agreed upon was then distributed among the town's citizens, to each in proportion to his "ability," or means (Jewell, 1972, pp. 53-54, 89-90; Mitchell, 1951, pp. 4-5, 324; Pirenne, 1956, pp. 146-49; Seligman, 1895, pp. 43-44).

But as monarchs conceived of more ambitious domestic policies, and as the needs of national defense increased, this system proved inadequate. If the king's revenues were to grow, however, a new justification would have to be found for the taking of subjects' wealth. It was the search for such a new "principle" of obligation that led to the evolution of the property tax.

As is often the case, old theories, instead of being scrapped, were rather expanded to encompass larger ends. The justification for taxes grew wider by degree, without changing in kind. As Ewart Lewis has pointed out, it had always been a principle of medieval law that the king could levy taxes,
and thereby intrude upon a private right, if one of two conditions were met: (1) if the tax were a feudal obligation; or (2) if the king could make a case for the necessity of a specific levy. (It was to hear such emergency appeals that parliaments were formed [Jewell, 1972, p. 91; Harriss, 1966, pp. 1-6].) Since the state “was no mere convenience, but a necessary condition, and a part, of the common good,” it followed that “the common interest in the maintenance of the state took precedence, on occasion, over the common interest in the maintenance of the private law.” Subjects were obliged, in this as in all cases, to recognize and submit to a demand that was objectively right—i.e., legitimate (Lewis, 1956, p. 469). In order to meet his increased revenue needs, therefore, the king would have to draw on traditional principles of right while at the same time appealing to an expanded notion of the public good.

The monarch’s problem was that the old basis of taxation—rank—failed to capture newer forms of wealth (the wealth of urban merchants for example). The tribute of towns, like that of nobles, was often fixed by charter and custom and was therefore inflexible; it often disappeared entirely over time. Property was already splitting into its modern components, and the monarch was faced with the task of devising a tax system that would reflect this complexity. The task proved surprisingly easy because most of the necessary elements were already in place. One element has already been mentioned: the understanding that membership in an urban community was a source of obligation not only to the community itself but, through it, to the monarch. This idea was the basis for the corporate tax levy and for many other features of English local government as well (Webb and Webb, 1908; Smellie, 1946).

Another element ready to hand was the concept of taxation by ability, an idea often thought to be modern in origin (this was Seligman’s view). Seligman defined “ability” as “the principle that each individual should be held to help the state in proportion to his ability to help himself” (Seligman, 1895, p. 21). Yet this principle was implicit in feudal obligations, which increased with the rise in rank—as did wealth. It was explicit in the distribution of the corporate levy among the individual subjects within each town. And it was found (in an admittedly primitive form) in the two “taxes” that were the immediate precedents for the property tax, i.e., danegeld and the church tithe.

Danegeld was the first assessed payment in England; it charged a fixed sum per hide of land (a hide was enough land for one family for one year) and was intended therefore to circumvent status and get at wealth directly. The tithe was a flat-rate income tax—it collected (for the Church) a “tenth of the produce of the faithful”—and could therefore grow as “produce” grew (Jensen, 1931, pp. 24-25; Jewell, 1972, pp. 89-90, 106-8). In 1194 these two taxes were merged into the first secular property tax in the English
tradition: the “aid on moveables,” which (under different names) was the chief form of national direct taxation until the advent of the income tax in 1799 (Jensen, 1931, p. 23; Jewell, 1972, pp. 90-91, 106).

In the beginning, the aid was not a tax on land, but on “personalty”: movable property such as livestock, crops, tools, and household goods, especially household luxuries such as silver plate. Land continued to be “taxed” in the old way, by collecting feudal dues from the great landowners (who were also liable for the tax payments of their vassals). In other words, a dual principle of assessment had emerged. Jurists referred to it as taxation ad statum et facultates—by status and ability (Seligman, 1895, p. 51). Henceforth, a subject's tax obligation would be determined by his place (in the feudal ranks or in an urban community) qualified by his means (Kennedy, 1913, p. 16).

Danegeld simply counted the units of land a subject used; the aid introduced the more sophisticated notion of taxing goods according to their market value. This was a novelty, and it proved to be a disturbing one. It was one thing to tax a subject according to his “degree.” It was quite another thing for “the chief magistrate [to] know men's estates” (Kennedy, 1913, pp. 42-43). Subjects objected to having their homes searched by tax assessors; in any case, such searches were time-consuming and expensive: from the start, the property tax has been plagued by high information costs.

Both problems were resolved by a single expedient: decentralized administration by local subjects acting in the king's name. At first the gentry performed this duty, as they had performed so many others for the monarchy. But since even poor people owned some ratable property (pigs were ratable, for example) it was necessary to employ jurors of “the middling sort” as well as members of the gentry. Thus were born the juries of assessment which traveled to North America in the seventeenth century and which are the very recognizable ancestors of the contemporary local board of assessors (Jewell, 1972, pp. 109-10; Mitchell, 1951, p. 63).

In England this system had important political results. First, tax liability remained corporate, as it had been from very early times. But now, instead of demanding a fixed sum embodied in a charter, the king distributed the total needed among the various jurisdictions (manors, towns, vills) according to their estimated wealth in ratables. The rate—the fraction of assessed value to be collected as tax—was arrived at by the simple method of guessing how much money a given rate would yield. It then fell to each jurisdiction to distribute its quota among local residents, according to local officials' own estimates of each resident's ability (Jewell, 1972, pp. 107-10; Kennedy, 1913, p. 16).

But what if, after applying the rate to the property of its residents, a town or manor failed to meet its quota? There were only two alternatives: responsible officials could plead poverty and ask for a reduction in their
quota (as they frequently did); or they could attempt, by altering assessments, to yield a higher tax return.

For this reason the corporate levy created a bargaining opportunity. Towns in particular seem to have availed themselves of this opportunity repeatedly, extracting concessions on municipal privileges in return for higher tax yields, or deliberately underassessing so as to return lower yields. This power to bargain tax payments was a powerful stimulus to municipal organization (Mitchell, 1951, pp. 63, 324; Weber, 1958, p. 134).

Second, the aids gave local officials the discretion to determine how the tax burden would be distributed. Ability was never a simple function of the amount of property owned. Tenants, for example, paid aids based on the productivity of the fields they cultivated. Furthermore, the expenses of "position" and of a large family were normally taken into account (Kennedy, 1913, p. 20). Undoubtedly there were also corrupt influences on assessments from the very beginning. In general, however, tax liability represented a local judgment of each resident's ability to pay. That such local judgments could be made—that they would inevitably be made—was a consequence of the decentralization of the aids.

Third, as property became more complex and economic conflict more pronounced, the local tax system became the arena for a political struggle. An important source of conflict was the special status of land in a polity still partially feudal. Land in the feudal economy was not "owned" in the modern sense, but was possessed by right immemorial or by royal favor. Inheritance was controlled by family law, and the greatest portion of land not in the hands of the king or the Church was held by a very small number of subjects. Land was rarely sold in an open market, and therefore it could not be reached by ad valorem assessments because it could not have a market value (Netzer, 1966, p. 192; Polanyi, 1957, pp. 69ff.; Seligman, 1895, pp. 14-16).

But if the land could not be taxed directly it could be taxed indirectly, and the ability principle (not to mention the need for greater revenue) led to a constant search for more effective ways of bringing the land into the system of public finance. Local administration aided in the solution of this problem since local juries, which were in most places not dominated by the gentry, would naturally turn to the great landlords for tax revenue. The local jury, in fact, became a weapon in the hands of the king, who could use it to pry tax revenues out of a reluctant nobility. The rise of a merchant class in the towns made this weapon all the more powerful since merchants had an important reason for trying to pass as much of the tax burden as possible onto landowners.

Seligman called this "the contest between the landed and the moneyed interest, between rent and profit ..." (1895, p. 16). This conflict gave local citizens a powerful motive for concerning themselves with their govern-
ments, all the more so because beginning with the Poor Law (1598 and 1601) local government in England was given increasing responsibilities, which were to be paid for out of the local rates (Broderick, 1875, p. 19; Webb and Webb, 1908, pp. 171-72; Trotter, 1968, p. 22).

By the sixteenth century, this contest had largely been won by the middle class. By then, income had been incorporated into the list of ratables, including income from land rents, and along with income from office, profession, and wage labor. In the absence of an accounting and reporting system, however, the most visible form of income was rent. Land rent proved in the end to be the most lucrative, and then almost the sole, source of tax revenue—so much so that by the seventeenth century the aids had come to be known as the Land Tax (Seligman, 1895, p. 48; Benson, 1965, p. 19; Kennedy, 1913, pp. 38-42). Seligman found that this “slippage” has always been a feature of the property tax. Concealable items—mostly household valuables—drop from the assessment lists as do most forms of intangible wealth, such as professional income and stocks. Finally, all that remains is the most visible and immovable form of property: real estate and the income derived from it (Seligman, 1895, pp. 54-80). This was true of the national tax, and it was true also of the local direct taxes; the scot, lot, town tax, and parish rate were based on the same dual standard of status and ability, and they were administered by the same juries (Smellie, 1946, p. 67; Seligman, 1895, pp. 43-44; Webb and Webb, 1908, pp. 286-87; Reed, 1981, pp. 123-28).

On the eve of the English Civil War, therefore, English taxation presented an unusual spectacle. The property tax had come full circle and was once again primarily a tax on those who used the land—as had been the case with the earliest feudal payments. The class that governed, the landed gentry, had come to be the most heavily taxed of all, and its representatives filled Parliament with denunciations of the injustice of the “rates.” The attitude of the middle class, by contrast, is suggested by Bacon’s remark that “the Englishman is the least bitten in purse and most the master of his own valuation” of any nation in Christendom (Benson, 1965, p. 19).

**LIBERALISM AND PUBLIC FINANCE**

This entire arrangement came under sustained attack in the seventeenth century, beginning with Hobbes and continuing with Locke, Petty, Sheridan, and other apostles of the new creed of liberalism. What liberalism contributed to public finance was a new understanding of the social order, one which turned the older, organic view of society on its head. Instead of placing obligation at the center of analysis, it advanced a concept of rights. Instead of seeing society as a network of classes, estates, and corporations, each with its appropriate duties, liberalism saw only a swarm of individu-
als, each in full possession, from birth, of a bundle of natural rights which it was the government's duty to protect. Public finance could not be immune to such a radical restructuring of social theory. As usual, Hobbes put it best:

For the impositions that are laid on the people by the sovereign power are nothing else but the wages due to them that hold the public sword to defend private men in the exercise of their several trades and callings. Seeing then that the benefit that every one receives thereby is the enjoyment of life, which is equally dear to poor and rich, the debt which a poor man owes them that defend his life is the same which a rich man owes for the defense of his ... Which considered, the equality of imposition consists rather in the equality of that which is consumed than of the riches of the persons that consume the same ... (Leviathan, part II, chap. 30)

This quotation contains two concepts of importance to subsequent public finance doctrine and one practical proposal. The first concept is equality. All subjects derive an equal benefit from the state—the protection of their lives—and should therefore pay the same tax, regardless of their means. The second concept, which proved the more durable of the two, is benefit. It is in Hobbes that we find the first important expression of the benefit theory of the state, which would have a great influence on eighteenth- and nineteenth-century public finance doctrine, and which Kennedy believed to be the singular achievement "in the realm of tax theory, of the Parliamentary and religious struggles of the seventeenth century" (Kennedy, 1913, p. 83; Groves, 1974, pp. 14-18). The state exists to provide a service; taxes are a payment for services rendered. Once we have determined what the benefit is, all that remains is to calculate its price.

This presented few problems for Hobbes, who believed the protection of life to be the essential public service for which all subjects owed the same fee. But the measurement of relative tax burden was not as important to Hobbes as that all men should pay something, which brings us to his practical proposal: that property taxes be replaced by consumption taxes, an idea with which Locke and Petty (among others) agreed (Kennedy, 1913, pp. 66-67).

Property is a poor basis for taxation, all three argued, because the ownership of property is not connected in any important way with the benefits, however defined, received from the state. This is at first glance a surprising conclusion, especially given Locke's famous point of departure, namely, that "the great and chief end of men's uniting into commonwealths is the preservation of their property" (Second Treatise of Civil Government, chap. IX, ¶ 124). Locke has been faulted for ignoring the radically unequal distribution of property in England, especially of land (Kennedy, 1913, p. 53). But his comments on public finance suggest the opposite conclusion: that he rejected the property tax precisely because property was so unequally distributed. Hobbes certainly rejected it for this reason, because a tax that does not touch the great majority of citizens does not compel them either. To Hobbes, the citizen can be taught the value of
public order only if he is conscious that it delivers to him some *private* benefit. To be conscious, he must be reminded, preferably every day. The citizen who escapes taxation—whether he is a miser whose gold is hidden from the assessor, or a poor man who owns nothing—is getting a free ride and learning a dangerous lesson. However, both must eat and therefore buy food; both can be compelled to pay taxes on whatever they consume. "[W]hen the impositions are laid on those things which men consume, every man pays equally for what he uses . . ." (*Leviathan*, part II, chap. 30).4

Locke, too, stressed the benefit doctrine: "everyone who enjoys his share of the protection [of the state] should pay out of his estate his proportion for the maintenance of it." And, like Hobbes, Locke was troubled by the great majority of citizens who escaped property taxes because of their poverty or dishonesty, or because of the inefficiency of the assessors. All such citizens could be made to pay taxes by taxing their consumption.5

Like the doctrine of ability, the benefit doctrine can be subject to conflicting interpretations. At one level, the two can even be combined, as Adam Smith did when he listed "ability" as the first principle of taxation, and then defined it in a way that incorporated benefit:

The expense of government to the individuals of a great nation, is like the expense of management to the joint tenants of a great estate, who are all obliged to contribute in proportion to their respective interests in the estate. (*The Wealth of Nations*, bk. V, chap. II, part 2)

Benefit can even be linked to a progressive income tax by the argument that the rich, since they derive more benefit from society than do the poor, should pay a larger proportion of their income in tax.

But the fundamental core of the benefit doctrine is the idea that the relation between citizen and state is a kind of commerce, a relationship of exchange or barter (Myrdal, 1965, pp. 164-65; Groves, 1974, pp. 14-18, 30-32). It immediately raises the question, "What have I received from the state?" rather than the question, "What is my ability to help the state?" (This was Seligman's definition of the ability principle.) Smith was led in this direction by his attempt to reconcile benefit and ability into one principle: in his treatment, obligation is activated only by ownership. The "joint

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4 This idea found its way into numerous texts and pamphlets on public finance and taxation in the seventeenth and eighteenth centuries, among them Sir William Petty's *Treatise on Taxes and Contributions* (1662), Thomas Sheridan's *Discourse on the Rise and Power of Parliaments* (1677), and Abraham Hill's *Considerations on Taxes* (1701). For a more extended treatment of early liberal tax theory, upon which much of this discussion is based, see Kennedy (1913).

5 Locke countered the objection that consumption taxes imposed a hardship on the poor (an objection inspired by the old ability notion) and that they ruined commerce. In *Considerations of the Lowering of Interest* (1691) he argued (among other things) that consumption taxes were shifted backward in the form of higher wages, and backward again in the form of reduced rents, and were therefore borne—by landlords!
tenants of a great estate” contribute to its maintenance, each according to his “stake” in the ongoing enterprise. Petty argued in the same manner that “it is generally allowed by all that men should contribute to the public charge but according to the share and interest they have in the public peace” (Kennedy, 1913, p. 65). Among the founders of modern liberalism, only J. S. Mill held to the older doctrine: “Government must be regarded as so preeminently a concern of all that to determine who are most interested in it is of no real importance” (Principles of Political Economy, bk. V, chap. 2, § 2-4).

Because it entered the canon of the political economists, the benefit doctrine enjoyed a long life; Seligman was still denouncing it in 1895. It has had, in modern times and especially in the United States, a paradoxical connection to the property tax—paradoxical because, as we have seen, the earliest proponents of the benefit doctrine rejected the property tax. In the United States, two factors brought about this marriage of irreconcilables. First, several of the public services financed by the municipal property tax have seemed to many economists to be uniquely “property related” (e.g., the laying of sewer and water lines [Spengler, 1940, pp. 165-73]). Second, wherever there is an organized real estate market it is possible to assign a market value to land and structures and thereby to arrive at an objective measure of the central service of the liberal state: the protection of private property.6

On the other hand, the benefit doctrine has had far less influence on property tax concepts in the land of its birth. In 1836, Parliament abandoned its enthusiasm for utilitarian social reform long enough to pass the Parochial Assessment Act, the basic statutory authority for local property taxes in the United Kingdom. This act reaffirmed the ancient practice of ability taxation by making income rather than market value the basis for assessment. The act directed that the “poor rate was to be levied on the basis of the net annual value of occupied property, which was defined as the rent at which [it] might reasonably be expected to let . . .” (Smellie, 1946, p. 67). This is still the method of assessing real estate taxes in Britain. The tax is levied on the annual rent in existing use, and it is charged to the occupant, whether owner or tenant. In the case of owner-occupancy (a much smaller category in Britain than in the United States) the rental value is imputed by the Inland Revenue. There has recently been added to the system a provision for “rate rebates” in case rental value exceeds a fixed proportion of a taxpayer’s income (Netzer, 1966, pp. 192-93; Kay and King, 6 It is in the school of public choice economics that the benefit doctrine is found in its purest modern form. Buchanan’s definition of “tax” echoes Hobbes: “To the individual, taxes are the ‘prices,’ the ‘costs,’ of the goods and services that the government supplies for his benefit” (Buchanan, 1967, p. 88). See also Brennan and Buchanan (1979).
1980, pp. 141-51). As in former times, the property tax is based on ability, and it is triggered by the use, rather than the mere ownership, of property.

It is in the United States that the full implications of liberal public finance doctrine have been realized. The American property tax is an _ad valorem_ tax, made possible by widely diffused property ownership, fee-simple land tenure, a highly organized real estate market, and democratic ideology. It was not always so. Until the early nineteenth century, colonial and state tax laws were patterned on English models. Property taxes were designed to tax ability or “faculty”; tax liability was frequently corporate, especially in New England; and tax assessment and administration were the responsibilities of local juries or boards of assessors (Jensen, 1931, pp. 21-22; Benson, 1965, pp. 22-24; Adams, 1884, pp. 52-53; Seligman, 1895, p. 19; Osgood, 1930, pp. 426, 470).

In the early nineteenth century, however, “liberal” or “democratic” public finance doctrines gained acceptance and spread in the form of “uniformity and universality” clauses in state constitutions or tax codes. The uniform and universal property tax was thought to be democratic because it would tax all property at the same rate, based on objective, market-value assessments (Benson, 1965, pp. 31-49). That this form of the property tax was connected to the benefit doctrine is clear from contemporary statements on the subject. The Massachusetts Constitution of 1780 contains the following very Lockean language: “Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection” (Part I, Article X). The governor of Kentucky, 1827: “Property affords the only means of paying taxes, and for the protection of property most of the institutions of society have been established. It would seem, therefore, but right that men of property should pay for sustaining them.” The governor of California, 1849: “The law protects every man in his person and property. For the protection it gives his person he ought to pay a capitation or poll tax; and for the protection it gives his property he ought of right to pay a tax in proportion to its amount and value” (Jensen, 1931, pp. 30, 33).

This philosophy could not have made such rapid progress, however, without the spread of market-value real estate assessments, which made it possible to quantify what the citizen had purchased from the state. If the state exists to protect property, what could be more fitting than to tax each citizen in proportion to the value of his holdings? And what could be easier, in a society where free-market land transactions were common, than to calculate the “fair cash value” of a given parcel?

And there matters might have remained, but for a revealing difficulty: having created a perfectly democratic property tax, Americans found that they did not like it very much. At first they found only small faults. The first
complaints involved the demand for exemptions: for schools, churches, war veterans, and the poor. The more serious complaint against the democratic property tax was that it attempted to reduce to a common measure, and thus treat alike, things which were in practice very different. Uniformity and universality seemed to embody an equalitarian standard: all citizens are equal, therefore their property should be treated equally. But just as civic equality obscured some important inequities, so did the equal treatment of property. Property differed in the ability it conferred upon its owners. Some land, though it carried a high market value (because somebody recognized its potential value), conveyed little income to its owners, possibly because it was not being put to its most profitable use. The vagaries of the real estate market meant that market-value assessments, if they were strictly applied, would dispossess current owners, disrupt the community, and deliver windfall profits to speculators—none of which was taken into account by the formal system of property tax administration (Benson, 1965, pp. 44-47).

By the end of the century, therefore, there was a powerful movement to abandon the democratic property tax in favor of a different system, which included the classification of property by use (the levying of different tax rates on residential, commercial, agricultural, and other types of property), the protection of current uses, and other departures from the liberal standard (N.I.C.B., 1930, pp. 4-5; Jensen, 1931, pp. 125-203). But that movement has proceeded in the twentieth century very unevenly, with the result that the property tax codes of the several states display more variation now than they did in the nineteenth century.

However, state law gives a very misleading picture of the contemporary American property tax. There are really two property tax systems: the legal one and the real one. The legal one still betrays its origins in nineteenth-century democratic ideology, with ringing declarations of the need to tax all property equally. Many states take the phrase “all property” quite literally, and they attempt to tax household goods and even intangible wealth such as banknotes and stock certificates. Most states forbid classification by use and insist that all property be taxed at the same rate.7

On the other hand, the property tax is not really a state tax anymore: states abandoned property taxation during the Depression with the general collapse of property values; and at that time the tax was substantially municipalized. The “real” property tax is a local tax, collected by nearly all of the eighty-two thousand units of local government in the United States, the bulk of collections occurring in the roughly eighteen thousand cities and

7 State tax laws are described in the annual editions of the State Tax Guide (Chicago: Commerce Clearing House).
towns. This municipal property tax has been studied extensively by economists since the Second World War. What kind of a tax is it?

First, there is no relationship at all between market value and assessed value in most jurisdictions in the United States. This has been one of the chief complaints made against the property tax since at least the turn of the century. Economists suggest a number of explanations for this gap: inexpert assessment offices, high information costs, corruption, among others (Seligman, 1895, pp. 24-26; Netzer, 1966, pp. 77-82, 173-83; Neenan, 1981, pp. 110-11; Paul, 1975, pp. 25-30). But the most compelling explanation is that the wide gap between assessed and market value is deliberate. Netzer suggests, for example, that “poor administration, at least in the form of disparities in assessment ratios, among classes of property . . . may amount to a policy choice to moderate the impact of property taxes for specific types of property” (1966, p. 83). In fact, the disparities betray a clear pattern: single-family homes are assessed at a smaller fraction of true market value than any other type of property.

In other words, although it is legal in only sixteen states and the District of Columbia, classification by use is practiced nearly everywhere, through the custom of assessing different classes of property at widely varying fractions of true market value and then applying the same rate to these (unequal) values. The result, of course, is effective tax rates that differ markedly across property classes (Paul, 1975, pp. 101-17; Fisher, 1976, pp. 5-22). Massachusetts was typical of the states in which illegal classification schemes were tolerated, at least until the 1960s, when state courts began to intervene. The city of Springfield, for example, classified property illegally into four categories—single-family homes, two-family homes, apartment houses, and businesses—and assessed these classes at 55, 60, 70, and 90 percent of market value, respectively (Paul, 1975, pp. 36-37; Angiolillo-Bent, 1981, p. 19). Cook County, Illinois has operated an illegal classification scheme for years. One study of that system found that “in line with the popular notion that it is unfair to tax non-income-producing properties on the same basis as income-producing properties wide discrepancies exist. . . . These discrepancies seem to be based more on an ability to pay basis than an evaluation of the amount of services obtained from the community” (Peterson et al., 1973, p. 142).

Second, the real property tax is far from universal, whatever the case might be (and it varies from state to state) with the de jure property tax. Since the nineteenth century, demands for exemption have increased so

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* The first important decision in Massachusetts attacking illegal classification schemes was *Bettigole v. Assessors of Springfield* (1961). The Supreme Judicial Court found the Springfield practice to be a violation of Part I, Article X of the Massachusetts Constitution (already quoted above), which expresses the Lockean benefit doctrine as it applies to taxes.
much that, in the aggregate, nearly two-fifths of all real estate in the United States is exempt from property taxes, and in some cities the proportion exceeds one-half. Exemptions follow along precedents of long standing, some going back to medieval times (when it was common for the aids to exempt "the tools by which men earn their living or serve their king" and the "books and vestments of the clergy"). Contemporary exemptions are offered to public institutions, charitable causes, churches, and other worthy enterprises. They are also offered to the poor—or at least to those among the poor who own real estate, a phenomenon with which the Middle Ages had little need to concern itself. In addition to formal exemptions such as circuit-breaker clauses (which resemble the English rate rebates) and veteran's exemptions, local custom (even when contrary to the law) dictates reduced assessments, or even abatements, in cases of need—although on an ad hoc and haphazard basis (Paul, 1975, pp. 49-89). "Current use" laws handle another problem caused by market-value assessments: the pressure on marginal farmland from urban uses (Gold, 1979, pp. 101-27; Netzer, 1976, pp. 223-33).

Third, countless urban politics and public finance texts describe the municipal property tax as a payment for the services provided by town and city governments—the old benefit doctrine in modern dress. There is even some evidence that citizens themselves regard the tax this way, especially in the suburbs (Neenan, 1981, p. 109; Tiebout, 1956).

Nevertheless, most contemporary economists are of the opinion that property taxes bear very little relation to the receipt of government services, and that they do not, in any important way, finance "services to property" (Netzer, 1966, pp. 59-60; Neenan, 1981, pp. 109-10). The owner of a $100,000 house, for example, does not "purchase" twice as much public education, fire protection, or garbage collection as the owner of a $50,000 house, even though market-value assessments would require her to pay twice as much in property taxes. Furthermore, the "services" being discussed here are in fact public goods and not items that can be consumed in identifiable quantities by individual citizen-consumers (Hale, 1984).

But what of the other historic standard for the imposition of taxes, that of ability to pay? The property tax was judged for many decades to be a viciously regressive tax (Seligman argued in this vein, and this is the description of property taxes that dominates the urban politics texts [Seligman, 1895, pp. 32-37; Netzer, 1966, pp. 45-59]). But lately there has been considerable back-pedaling on the regressivity of the property tax, and a large body of economic opinion now holds that it is either not as regressive as it was once thought to be or that it is in fact progressive. Various studies have demonstrated that residential property expenditures are more elastic with respect to income than other consumer purchases, making housing an exception to the general rule that taxes on articles of

In other words, the property tax has once again “evolved” by returning to its original form as a tax on the users of real estate, just as it did in the sixteenth century. And, as in former times, it attempts to capture ability—and apparently does so with a fair degree of success.

We would reach very different conclusions about this tax, depending on whether we applied economic or political standards of judgment. Judged by economic criteria, the municipal property tax ranges from pernicious to barely tolerable (given different assumptions about tax incidence and side effects). Judged by political criteria, however, the tax is a fascinating paradox. The formal property tax—the benefit tax based on market-value assessments—is unjustifiable, but it is also a dead letter. The real property tax is based on a political doctrine that is premodern, but which can only be implemented through informal, customary, and even illegal methods.

CONCLUSION

From this tangled history it is possible to derive several propositions about the contemporary property tax—which, though it is a source of much

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9 These comments on the progressivity of the property tax apply to the tax on residential real estate, after considering the effects of the informal and illegal adjustments to formal tax liabilities. Several caveats are in order here: (1) empirical economic studies have a hard time taking such effects into account precisely because of their haphazard and often illegal nature. (2) Nor do the informal adjustments always work in a progressive direction. Paul (1975) reports that residential property in low-income black neighborhoods in Boston was assessed at a higher fraction of market value than property in middle-income (mostly white) neighborhoods, contributing to a regressive outcome. This result was partly deliberate, however; i.e., it was a consequence of the city administration’s solicitous attitude toward white homeowners and its relative indifference to blacks. (3) The property tax on nonresidential property (business realty and personalty) may have different consequences depending upon how much of the tax can be shifted to consumers or employees. The tax incidence studies give different answers to this question because they employ different assumptions. (4) A further claim for the progressivity of the property tax—that it captures an element of “net worth” and that it taxes unrealized capital gains—may be substantially offset by the favored treatment of real estate taxes in the federal income tax code (Shannon, 1976; Fisher, 1976). Many economists, consequently, have urged the repeal of this policy, along with the mortgage interest deduction, as a way of improving the progressivity of both the federal and local tax systems (Netzer, 1973). For a fuller treatment of the tax incidence problem, see the following: Netzer (1966, 1967, 1968, 1973, 1976, 1983), Buehler (1967), Groves (1974), Mieszkowski (1972), Aaron (1975), McLure (1977), Henderson (1977, pp. 181-91), Brown and Johnson (1979), Heilbrun (1983).
public misunderstanding and even cynicism (Paul, 1975), is not likely to be repealed outright or even “phased” out of existence.

First, in venting their frustration at big government and at waste, fraud, and abuse, American voters may have picked on an innocent tax. The property tax is clearly an unpopular tax; it usually ranks dead last in the public opinion polls, especially when respondents are asked to rank taxes according to their “fairness” (Citrin, 1979, pp. 114-15; Slovak, 1980, pp. 189-90; Song and Yarbrough, 1978, p. 450; A.C.I.R., 1977; Sears and Citrin, 1982, pp. 44-46). But it is equally clear that most people have very little knowledge of the system as it really operates: partly because the property tax is so decentralized, but also because most assessors discourage public scrutiny of their practices. It is hard to know, therefore, which tax Americans dislike: the statutory tax or the real tax? If they understood the system better (and if current economic thinking on the progressivity of the tax can be trusted) Americans might have a more favorable view of it and could direct their anger at more useful targets.

Second, without slighting the importance of better administration (a cherished goal of tax reformers for decades), our history indicates that poor administration is not the chief problem with the property tax. The basic problem with property taxation is the benefit theory of the state and its corollaries in the doctrines of liberal public finance. The benefit theory imposes impossible demands on the property tax and is an important source of public confusion. Two examples will illustrate this proposition.

In neighborhoods experiencing “gentrification,” low-income (and even middle-income) households face the threat of radically higher property taxes whenever cities revalue property—which is why cities are often extremely reluctant to do so despite the higher tax revenues they might harvest as a result.10 If low-income owners choose to capitalize on their opportunities, they can sell out and pay a capital gains tax on their profits. If they choose to stay—and this might be more beneficial to the local community—they are liable to a penalty in the form of taxes higher than their incomes can support.11

This is a serious problem: it pits “gentrifiers” against established residents; encourages real estate speculation; destabilizes neighborhoods; and forces city governments to make painful choices between “stability” and “progress.” But it is an unnecessary problem caused by our habit of equating the property tax with market-value real estate assessments—a distinctly

10 Boston Mayor Kevin H. White said of revaluation in 1971: “It is a requirement that I will drag my feet on as long as I can for the benefit of the city” (Paul, 1975, p. 63).

11 They are liable in theory; in practice they can seek abatements, although there is no guarantee that they will get them, since household income is not a formal part of the tax assessment formula.
modern equation traceable to the benefit doctrine. Without that doctrine we could do openly what we so often do informally through the use of exemptions and abatements—i.e., base the property tax on an income (ability) standard rather than a market-value (benefit) standard. Increases in the value of real estate would no longer trigger automatic (and often enormous) increases in the property tax burden. "Windfall" gains from such property value increases could be taxed only when capitalized.

The second example concerns renters. In the United States, tenants are not required to pay property taxes.12 This fact is significant for two reasons. First, it suggests the difficulty of basing a tax system on a notion of "benefit" linked to ownership; and second, it reveals something of what we lost when we pushed aside the older notions of obligation once associated with public finance theory.

Here is the tangle into which the benefit doctrine leads: tenants are not required to pay property taxes because they own no ratable property. Because they own nothing, they presumably enjoy none of the benefits for which the liberal state was created. Their exclusion from property taxes is therefore perfectly legitimate.

Now, of course no one would really make such an argument: the benefit doctrine is no longer as austere as it was in Locke's day. The "benefits" derived from the state are now said to be the services provided by municipal governments: public safety, education, garbage collection, and so on. Yet clearly tenants make use of these "services" as much as do owners: they send their children to public schools, have their trash collected, and use the public sewers. In other words, even under the benefit doctrine in its modern form, there is something suspicious about the renter exclusion, but that doctrine's equation of obligation and ownership prevents us from seeing the absurdity.

The problem with the renter exclusion becomes immediately clear only when we reach back for principles that are premodern in their origin. Citizenship in a local community involves the dual principles of status (citizen) and membership (in this city as opposed to all others). Neither principle is in any way compromised by renting rather than owning property. Ownership (pace Adam Smith) is not the core of obligation; if it were, we would have to give serious thought to excluding renters from the local franchise as well as from the local property tax.

As it stands, however, the local property tax is a missed opportunity to teach all citizens—owners as well as tenants, those with great property and those with little—their obligations to and status within the communities in

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12 Many of them pay their landlord's tax bill along with their rent, although economists disagree on the extent to which this occurs. But from a political perspective it hardly matters: a "hidden cost" is not a tax because it is not based on and does not teach a principle of obligation.
which they live. Given the precarious nature of many local governments, such opportunities should be exploited to their fullest extent.

Third, the most likely alternatives to the property tax, as sources of revenue for local governments, are inferior to it on grounds of tax equity and as methods of civic education.

When voters succeed in forcing mandatory property tax reductions, they often push local government in the direction of "user fees" and explicit benefit taxes. User fees are collected for a wide range of public services, including water, sewage disposal, fire protection, education, and parks and recreation. Benefit taxes have long been collected for "public improvements" (such as new sidewalks or curbs) that raise the value of adjacent property.

User fees are based on the doctrine that citizens are "consumers" who "purchase" services, which can be priced as if they were goods traded on the free market. But all city services are public goods of one sort or another, from which the community as a whole derives a collective benefit. Sewers, water supplies, and fire departments are necessary if the city is to exist at all; public education is meant to produce a literate and intelligent citizenry—a collective benefit and not a service only to parents of school-age children. For these reasons, any method of payment that is not spread throughout the citizenry is inequitable.

And worse: it teaches a pernicious lesson, namely, that cities are merely collections of individuals who owe nothing to one another, who get nothing from one another's presence, who have inherited nothing from past generations, and who owe nothing to generations yet to come. These are the consequences of "privatizing" public services. For all its administrative drawbacks, the property tax is preferable by far.

Fourth, the property tax is a fascinating study of what may be a more general phenomenon in American politics: the tension between what we say we are doing and what we do in fact. I do not mean to indict hypocrisy here; what we have in the case of the property tax is not hypocrisy but metaphysical confusion. We have embraced liberal public finance doctrine along with many other doctrines derived from the same tradition. But we are not comfortable with the consequences, so we do one thing while professing another. Behind the liberal property tax—or, to put it more exactly, in the nooks and crannies left open by the widely decentralized system of local tax administration—lives a property tax with a very different face. It is a tax based, however haphazardly, on principles that were already old when liberalism was born, and that we have adhered to even while writing the newer doctrines into our statutes and our texts.

This leads to the final proposition. Having rejected liberal practice, we might as well reject the liberal doctrine as well, and get on with the business of running a system of local finance without having to face a confusing conflict between what we do and what we say we are doing.

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