COERCION AND DISTRIBUTION IN A SUPPOSEDLY NON-COERCIVE STATE

"And while the House of Peers withholds its legislative hand,
And noble statesmen do not itch
To interfere with matters which
They cannot understand,
As bright will shine Great Britain's rays
As in King George's glorious days."

—From W. S. Gilbert's *Iolanthe*.

THE so-called individualist would expand this philosophy to include all statesmen, whether noble or not, and to include all economic matters as among those which they cannot understand. The practical function of economic theory is merely to prove to statesmen the wisdom of leaving such matters alone, not to aid them in the process of interfering. And in foreign as well as in domestic affairs, they should make no effort to control the natural working of economic events. This would seem to be the general view of Professor Thomas Nixon Carver,[1] although he likewise speaks frequently as a nationalist. But a careful scrutiny will, it is thought, reveal a fallacy in this view, and will demonstrate that the systems advocated by professed upholders of *laissez-faire* are in reality permeated with coercive restrictions of individual freedom, and with restrictions, moreover, out of conformity with any formula of "equal opportunity" or of "preserving the equal rights of others." Some sort of coercive restriction of individuals, it is believed, is absolutely unavoidable, and cannot be made to conform to any Spencerian formula. Since coercive restrictions are bound to affect the distribution of income and the direction of economic activities, and are bound to affect the economic interests of persons living in foreign parts, statesmen cannot avoid interfering with economic matters, both in domestic and in foreign affairs. There is accordingly a need for the development of economic and legal theory to guide them in the process.

To proceed to an examination of Professor Carver's system. His "individualism" is not entirely orthodox, for he is conscious of a certain amount of restriction of liberty in the scheme he advocates.

[1] *Principles of National Economy.* By Thomas Nixon Carver. New York, Ginn and Company, 1921.—vi, 773 pp.

Indeed his statement on page 747 is altogether too pragmatic to please the doctrinaire disciple of Spencer. In each proposed case of governmental interference, he thinks, the question is to be asked, "Are the evils to be repressed greater than those that accompany the work of repression, and are the evils to be removed by regulation greater than those that accompany the work of regulation? The method of procedure must be to consider, appraise, and compare the evils on both sides." While this test might be accepted by the so-called paternalist, as well as by the so-called individualist, Mr. Carver's final conclusions as to governmental activity do not differ materially from those of the more orthodox of the latter. The government, he thinks, should exercise sufficient constraint to prevent destruction and deception, to standardize measures, qualities and coins, to enforce contracts, to conduct certain enterprises (like lighthouses) which cannot well be carried on otherwise, to regulate monopoly prices and to control the feeble-minded and the otherwise incompetent in their own interest. It should not coerce people to work, nor should it, with rare exceptions, undertake to direct the channels into which industry should flow. It should, however, prevent any private person or group from exercising any compulsion. The government must also impose taxes; it should restrict immigration and furnish educational opportunities. Such a scheme has the appearance of exposing individuals to but little coercion at the hands of the government and to none at all at the hands of other individuals or groups. Yet it does in fact expose them to coercion at the hands of both, or at least to a kind of influence indistinguishable in its effects from coercion. This will shortly appear more clearly, it is hoped. Meanwhile, let it be kept in mind that to call an act coercive is not by any means to condemn it. It is because the word "coercion" frequently seems to carry with it the stigma of impropriety, that the coercive character of many innocent acts is so frequently denied.

What is the government doing when it "protects a property right"? Passively, it is abstaining from interference with the owner when he deals with the thing owned; actively, it is forcing the non-owner to desist from handling it, unless the owner consents. Yet Mr. Carver would have it that the government is merely preventing the non-owner from using force against the owner (pp. 104–5 and 106). This explanation is obviously at variance with the facts—for the non-owner is forbidden to handle the owner's property even where his handling of it involves no violence or force whatever. Any lawyer could have told him that the right of property is much more extensive than the mere right to protection against forcible dispossession. In protecting property the government is doing something quite apart from merely keeping the peace. It is exerting coercion wherever that is necessary to protect each owner, not merely from violence, but also from peaceful infringement of his sole right to enjoy the thing owned.

That, however, is not the most significant aspect of present-day coercion in connection with property. The owner can remove the legal duty under which the non-owner labors with respect to the owner's property. He can remove it, or keep it in force, at his discretion. To keep it in force may or may not have unpleasant consequences to the non-owner—consequences which spring from the law's creation of legal duty. To avoid these consequences, the non-owner may be willing to obey the will of the owner, provided that the obedience is not in itself more unpleasant than the consequences to be avoided. Such obedience may take the trivial form of paying five cents for legal permission to eat a particular bag of peanuts, or it may take the more significant form of working for the owner at disagreeable toil for a slight wage. In either case the conduct is motivated, not by any desire to do the act in question, but by a desire to escape a more disagreeable alternative. In the peanut case, the consequence of abstaining from a particular bag of peanuts would be, either to go without such nutriment altogether for the time being, or to conform to the terms of some other owner. Presumably at least one of these consequences would be as bad as the loss of the five cents, or the purchaser would not buy; but one of them, at least, would be no worse, or the owner would be able to compel payment of more. In the case of the labor, what would be the consequence of refusal to comply with the owner's terms? It would be either absence of wages, or obedience to the terms of some other employer. If the worker has no money of his own, the threat of any particular employer to withhold any particular amount of money would be effective in securing the worker's obedience in proportion to the difficulty with which other employers can be induced to furnish a "job". If the non-owner works for anyone, it is for the purpose of warding off the threat of at least one owner of money to withhold that money from him (with the help of the law). Suppose, now, the worker were to refuse to yield to the coercion of any employer, but were to choose instead to remain under the legal duty to abstain from the use of any of the money which anyone owns. He must eat. While there is no law against eating in the abstract, there is a law which forbids him to eat any of the food which actually exists in the community—and that law is the law of property. It can be lifted as to any specific food at the discretion of its owner, but if the owners unanimously refuse to lift the prohibition, the non-owner will starve unless he can himself produce food. And there is every likelihood that the owners will be unanimous in refusing, if he has no money. There is no law to compel them to part with their food for nothing. Unless, then, the non-owner can produce his own food, the law compels him to starve if he has no wages, and compels him to go without wages unless he obeys the behests of some employer. It is the law that coerces him into wage-work under penalty of starvation —unless he can produce food. Can he? Here again there is no law to prevent the production of food in the abstract; but in every settled country there is a law which forbids him to cultivate any particular piece of ground unless he happens to be an owner. This again is the law of property. And this again will not be likely to be lifted unless he already has money. That way of escape from the law-made dilemma of starvation or obedience is closed to him. It may seem that one way of escape has been overlooked—the acquisition of money in other ways than by wage-work. Can he not "make money" by selling goods? But here again, things cannot be produced in quantities sufficient to keep him alive, except with the use of elaborate mechanical equipment. To use any such equipment is unlawful, except on the owner's terms. Those terms usually include an implied abandonment of any claim of title to the products. In short, if he be not a property owner, the law which forbids him to produce with any of the existing equipment, and the law which forbids him to eat any of the existing food, will be lifted *only* in case he works for an employer. It is the law of property which coerces people into working for factory owners—though, as we shall see shortly, the workers can as a rule exert sufficient counter-coercion to limit materially the governing power of the owners.

Not only does the law of property secure for the owners of factories their labor; it also secures for them the revenue derived from the customers. The law compels people to desist from consuming the products of the owner's plant, except with his consent; and he will not consent unless they pay him money. They can escape, of course, by going without the product. But that does not prevent the payment being compulsory, any more than it prevents the payment of the government tax on tobacco from being compulsory. The penalty for failure to pay, in each case, may be light, but it is sufficient to compel obedience in all those cases where the consumer buys rather than go without. On pages 620–621, Mr. Carver attempts to distinguish on the ground that in the case of the tax the government "did not produce the tobacco but only charges the manufacturer or the dealer for the privilege of manufacturing or selling." But this is equally true of the owner of the factory, if he is an absentee owner. Whether the owner has rendered a service or not bears only on the question of the justification of the income which he collects, not on whether the process of collecting it was coercive.

As already intimated, however, the owner's coercive power is weakened by the fact that both his customers and his laborers have the power to make matters more or less unpleasant for him—the customers through their law-given power to withhold access to their cash, the laborers through their *actual* power (neither created nor destroyed by the law) to withhold their services. Even without this power, it is true, he would have to give his laborers enough to sustain them, just as it is to his own interest to feed his horses enough to make them efficient. But whatever they get beyond this minimum is obtained either by reason of the employer's generosity and sense of moral obligation, or by his fear that they will exercise the threat to work elsewhere or not at all. If obtained through this fear, it is a case where he submits by so much to their wills. It is not a "voluntary" payment, but a payment as the price of escape from damaging behavior of others. Furnishing food to one's slaves is essentially different; the owner may do it reluctantly, but if there is any "coercion" it is the impersonal coercion by the facts of nature which account for the slaves' labor being less efficient without the food; he is not influenced by the will of any human being. In paying high wages to wage-earners, on the other hand, he is. But for their will to obtain the high wages, and their power of backing up that will, he has no reason for paying them. Yet he does. What else is "coercion"?

There is, however, a natural reluctance so to term it. This can be explained, I think, by the fact that some of the grosser forms of private coercion are illegal, and the undoubtedly coercive character of the pressure exerted by the property-owner is disguised. Hence the natural reaction to any recognized form of private coercion is, "forbid it." One who would not wish to take from the laboring man his power to quit the employer, or to deny him the wages that he gets for *not* quitting, is apt to resent the suggestion that those wages are in fact coercive. But were it once recognized that nearly all incomes are the result of private coercion, some with the help of the state, some without it, it would then be plain that to admit the coercive nature of the process would not be to condemn it. Yet popular thought undoubtedly does require special justification for any conduct, private or governmental, which is labeled "coercive", while it does not require such special justification for conduct to which it does not apply that term. Popular judgment of social problems, therefore, is apt to be distorted by the popular recognition or non-recognition of "coercion". Hence it may be worth while to run down into more detail the distinctions popularly made between coercion and other forms of influence over people's conduct.

"Threats" are often distinguished from "promises". If I tell a man I will do some positive act whose results will be unpleasant to him, unless he pays me money, and if as a result he pays it, I would usually be said to be collecting it by means of a "threat." If, on the other hand, I tell him I will do some positive act, whose results will be pleasant to him, *if* he pays me money, and he does, it would be said more commonly that I collected it by means of a "promise". Partly as a result of the moral connotation generally given to these terms, partly as its cause, the law more frequently interferes to prevent the doing of harmful acts than it does to compel the doing of helpful ones. Many (but not all) positive acts which are disadvantageous to others are forbidden; not so many positive acts that are advantageous to others are compelled. In other words, most torts and crimes consist of positive acts. Failure to help does not as a rule give rise to legal punishment or a right of action. Yet there are exceptions. Certain acts not in themselves actionable at law, may give rise to legal duties to perform positive acts. If I start an automobile in motion, I have committed no legal wrong; but if subsequently I fail to perform the act of stopping it when "reasonable care" would require me to do so, the victim of my failure to act can recover damages for my non-performance.[1] Again, and more significant, if I have promised to do certain things (with certain formalities or "consideration"), my act of promising was not a legal wrong. But if I subsequently fail to perform at the time specified, the promisee has a right of action for my failure to act. It is significant of the reluctance to admit the existence of positive legal duties, that in both cases language is used which makes my wrong conduct seem to consist of wrongful acts instead of wrongful *failure* to act. It is said, in the one case, that I "ran over" the victim, in the other that I "*committed* a breach of contract." Yet in neither was the wrong an act, but a failure to act: in the first case, my failure to make the requisite motions for stopping the car; in the second, my failure to perform the act promised.

[1] *Cf.* an article by Leon Green in 21 *Michigan Law Review*, 495 (March, 1923).

Now suppose that instead of actually refraining from doing the acts which the law requires, I say to a man, "Pay me a thousand dollars, and when I meet you on the road walking I will use sufficient care to stop my car or to steer it so that it will not hit you; otherwise I will do nothing about it." Is that a "threat" or a "promise"? Or if I say, "Pay me a thousand dollars and I will perform the acts I have already contracted to perform"? I believe most people would call these statements threats rather than promises. Why? It may be partly due to the misleading language which speaks of the *act* of running over and the *act* of breaking a contract. But even were the fact recognized that payment were demanded as the price of *not abstaining*, I believe the demands would still be called threats. The reason, I believe, is partly because to abstain is contrary to legal duty, partly because it is adjudged to be contrary to moral duty. Popular speech in this case seems to apply the term coercion to demands made as a price of not violating a legal or moral duty, whether the duty consists of acting or of letting alone. But this criterion will not do, either.

If an act is called "coercion" when, and only when, one submits to demands in order to prevent another from violating a legal duty, then every legal system by very definition forbids the private exercise of coercion—it is not coercion unless the law does forbid it. And no action which the law forbids, and which could be used as a means of influencing another, can fail to be coercion—again by definition. Hence it would be idle to discuss whether any particular legal system forbids private coercion. And if an act is called "coercion" when, and only when, one submits to demands in order to prevent another from violating a *moral* duty, we get right back to the use of the term to express our conclusion as to the justifiability of the use of the pressure in question; with the ensuing circular reasoning of condemning an act because we have already designated it "coercive." One is likely, that is, to have a vague feeling against the use of a particular form of economic pressure, then to discover that this pressure is "coercive"—forgetting that coerciveness is not a ground for condemnation except when used in the sense of influence under pain of doing a morally unjustified act. And obviously to pronounce the pressure unjustified because it is an unjustified pressure is to reason in a circle. Hence, it seems better, in using the word "coercion", to use it in a sense which involves no moral judgment.

But popular feeling sometimes makes another distinction. If I plan to do an act or to leave something undone for no other purpose than to induce payment, that might be conceded to be a "threat." But if

I plan to do a perfectly lawful act for my own good, or to abstain from working for another because I prefer to do something else with my time, then if I take payment for changing my course of conduct in either respect, it would not be called a threat. If a man pays me to keep out of a particular business, or if he pays me to work for him (when I am not legally bound by contract to do so), then it seems absurd to many to say that he paid me under threat of coercion —unless, in the first case, my sole motive in entering the business was to bring him to terms, and unless in the second I preferred working for him to any other occupation of my time, and my sole motive in abstaining was again to bring him to terms. For purposes of ordinary conversation, some other word than coercion may be preferred to describe payments made to a man who makes a sacrifice to "earn" them. But can a line be drawn? I believe the popular distinction along these lines is based on moral judgment. If a man gives up a job he likes, or if he works for another man, why shouldn't he be paid for it?—it will be asked. Perhaps he should. But unless the term "coercion" is applied only to conduct adjudged immoral, does the justifiability of the receipt of payment prevent it from being coercive?

If those distinctions are all invalid, then, which seek to remove the term "coercive" from some of the influences exerted to induce another to act against his will, it seems to follow that the income of each person in the community depends on the relative strength of his power of coercion, offensive and defensive. In fact it appears that what Mr. Carver calls the "productivity" of each factor means no more nor less than this coercive power. It is measured not by what one actually *is* producing, which could not be determined in the case of joint production, but by the extent to which production would fall off if one left and if the marginal laborer were put in his place—by the extent, that is, to which the execution of his threat of withdrawal would damage the employer.[1] Not only does the distribution of income depend on this mutual coercion; so also does the distribution of that power to exert further compulsion which accompanies the management of an industry. Some extremely interesting suggestions of the likelihood of control by capitalists, cooperative buyers, cooperative sellers and laborers are to be found on pages 222–225. This power is frequently highly centralized, with the result that the worker is frequently deprived, during working hours and even beyond, of all choice over his own activities.

[1] *Cf.* the statement on p. 530.

To take this control by law from the owner of the plant and to vest it in public officials or in a guild or in a union organization elected by the workers would neither add to nor subtract from the constraint which is exercised with the aid of the government. It would merely transfer the constraining power to a different set of persons. It might result in greater or in less actual power of free initiative all round, but this sort of freedom is not to be confused with the "freedom" which means absence of governmental constraint. Mr. Carver himself points out (pp. 134–5 and 424), that the governmental constraint involved in the maintenance of traffic police results in giving the average individual *greater* "freedom of movement." But "freedom of movement" does not mean freedom from governmental constraint, or even from constraint by private individuals. It means freedom from physical obstruction—in other words, greater physical *power* to move. Whether in other cases, too, physical power to exercise one's will is enhanced by a certain amount of legal restriction depends upon the peculiar facts of each case.[1] Whether Mr. Carver's scheme of things would be more or less "free" (in the sense of giving people greater power to express their wills) than would a state of communism, depends largely on the economic results of communism respecting the character of factory work. Neither can be said to be any "freer" than the other in the sense that it involves less coercion on the part of other human beings, official or unofficial.

The distribution of income, to repeat, depends on the relative power of coercion which the different members of the community can exert against one another. Income is the price paid for not using one's coercive weapons. One of these weapons consists of the power to withhold one's labor. Another is the power to consume all that can be bought with one's lawful income instead of investing part of it. Another is the power to call on the government to lock up certain pieces of land or productive equipment. Still another is the power to decline to undertake an enterprise which may be attended with risk. By threatening to use these various weapons, one gets (with or without sacrifice) an income in the form of wages, interest, rent or profits. The resulting distribution is very far from being equal, and the inequalities are very far from corresponding to needs or to sacrifice. Most radical movements have as at least one of their aims the reduc-

[1] It is this fractional freedom which must be the interest Pound has in mind when he speaks of "men's aspirations for free self-assertion."—*Interpretations of Jurisprudence*, p. 126. But it is doubtful whether even Pound recognizes that this interest does not necessarily run counter to legal restraint.

tion of these inequalities, and the bringing of them into closer conformity with needs or sacrifices. Professor Carver has the same aim. He would accomplish it, however, primarily, not by altering the legal arrangements under which the various weapons are allotted, but by altering the effectiveness of the weapons. In explaining the distribution of wealth "our first problem", he says, is "to study the market value of each factor, or agent, of production in order to find out why the seller of each factor gets a large or a small share" (p. 471). (The study of the legal arrangements by which the seller of each comes to have control over that particular factor does not interest him.) And a nearer approach to equality is to be reached by changing the market values—i. e., the effectiveness of the weapons. He would try to bring about what he calls a better balance of factors. One man's power to withhold his unskilled labor is not a strong weapon, because unskilled labor is too plentiful, and the demand for it too weak. Therefore make it scarcer, and increase the demand for it. Capital gets a large return because capital is relatively scarce. Therefore encourage thrift, and the interest rate will drop. Land rent will fall if more bad land is made good by reclamation projects. And the increase of the scarce factors will in itself increase the demand for the less scarce and thus will work in cooperation with the thinning-out of the latter to raise their market value.

Mr. Carver's explanation of what determines the market values of capital, labor, etc., is clear and penetrating, along the lines followed in his much earlier *Distribution of Wealth*. He employs the "marginal analysis", and his conclusions are subject to whatever qualifications recent study has necessitated in the use of that analysis. Possibly one qualification of his analysis of the benefits to be derived from an increase in the supply of capital, may be suggested. It is a qualification required by his characteristic preoccupation with long-run results, without regard to transitional consequences. With an increased supply of capital, according to his reasoning, dividends on common and preferred stock will fall, also interest offered for new bonds. But according to the same reasoning, if the process goes far, interest on old bonds will be defaulted. If bankruptcy is widespread, and results in business depression, the demand for labor will drop, since, despite the greater *physical* productive capacity, the *psychological* motives for utilizing that capacity will be paralyzed. It is the owners who determine how far to carry its utilization, and their judgment is motivated by the prospect of profits. One result is of course a fall in wages, which will restore somewhat the net earning power, but not sufficiently to give it the old motive force to induce full utilization. Despite lower labor costs, industry is still unprofitable owing to the fall in the price of the products; and this fall is not the result solely of increased supply, but also of the decreased demand ensuing upon unemployment and enforced economy. If an increase in the supply of capital brought about its lower interest rate smoothly, without causing bankruptcies and other dislocations, there might then be no paralysis of productive motives, for the hypothesis of a greater degree of thrift implies that the motive to invest will function despite a lower interest rate, and no other factors of production would be less well rewarded than before. But such smoothness in the process is not what is found in actual life; and while the dislocations which accompany it seem from the point of view of symmetrical theory to be mere qualifications, and of no great importance for explaining the central theory, yet in actual life many qualifications of theories assume great practical importance. And business depressions are not to be overlooked in considering the effects of increased thrift. Elsewhere in his book Mr. Carver considers depressions, and his explanation is in no way inconsistent with a view that increase of thrift may be one of the things which might bring them about. He traces them back to fluctuations in prices of products, which cause magnified fluctuations in the value of capital equipment (pp. 436–9). But an increase in the amount of capital equipment, with an accompanying increase in the supply of products, will doubtless be one factor causing a reduction in the price of the products. The effect on the value of the plants will be partially offset by the fact that the lower net earnings will be capitalized at a lower interest rate, but if the increase in the supply of capital is swift, there is no reason to assume that the offset will be complete. The temporary effect of thrift, then, may be quite different from the effect which Mr. Carver foresees. But this does not, of course, prove that its total effect may not be to lower the earnings of capital and to raise those of labor. For in times of prosperity it is very likely that the limiting factor in production is not the reluctance to use existing capital equipment, but its physical scarcity. What may be the net benefits to the workers from increased thrift, is a question inviting more study than Mr. Carver gives it.

His balancing program, then, consists in a greater equalization of the market values of the different factors of production. What are the concrete steps which he would take to effectuate his "balancing program"? Unskilled labor he would render scarcer, partly by thinning out its ranks through greater educational opportunities, partly by encouraging an increase in the standard of living (thus indirectly diminishing the birth rate—he does not mention birth control) and partly by restricting immigration. In refreshing contrast with many publicists, he has no fears for a "labor shortage"—in fact he would welcome one. In his outline of "A Liberalist's Program" he suggests minimum wage laws and minimum building standards as means of raising the standard of living, but does not develop these interesting suggestions elsewhere in the book. Thrift campaigns would be another means for raising the standard. In restricting immigration, we confront two objections, which the author ignores—one, the interests of foreign workers, the other, danger to our own people from international complications which might ensue. Mr. Carver's nationalist philosophy simplifies the problem for him by permitting him to ignore the former completely. And the avoidance of war does not seem to interest him greatly.

By his "balancing program" Mr. Carver hopes to bring about greater equality in the effectiveness of the coercive weapons (though he does not express it this way); to increase the mischief which the unskilled worker can achieve by withholding his labor (thus enabling him to collect a larger wage as the price of not causing the mischief) and to decrease the mischief which the property-owner or the possessor of business skill can cause by withholding his property or his skill. Perhaps he would achieve all that he hopes for, but he offers no quantitative proof of the result. Why, then, does he show little interest in supplementing his program by proposing to alter the legal arrangements themselves? He might conceivably propose to distribute the weapons anew, or to make their use conditional either on charging low prices or on paying high wages or on paying taxes which could be redistributed to those whose bargaining weapons are weak. Such proposals, however, receive but limited sympathy from him. He is fond of contrasting his "voluntaristic" balancing program with the coercive "voting programs" of socialism and communism, and the coercive "fighting programs" of Bolshevism and the I. W. W. This is attributed, I believe, to his failure to see the coercive nature of the bargaining weapons, coupled with his keenness in scenting coercion in any legal arrangements which would alter the distribution of these weapons.

He does not, however, entirely eschew a "voting program," nor are all the reasons he gives for not going further, tinctured with his "voluntaristic" fallacy. One prime reason he has for not tampering with the unequal incomes which flow to the owners of the various factors, is that these incomes perform the function of redressing that same uneven balance of which the unequal incomes are but symptoms. Whatever factors have the greatest market value, and accordingly bring their owners the greatest rewards, are the factors which society has most need to have increased, and the high rewards will induce more people to produce them. There is much reason for doubting the perfect correlation between market values and society's needs. Yet there is a large element of truth in the proposition that many of the inequalities of income serve the useful function of stimulating production in such a way as to benefit others as well as the producers. And some inequalities might be defended on other grounds—for instance, on the ground that their removal would cause serious temporary dislocations. But as we have seen, Mr. Carver is not greatly interested in such temporary matters. Even his balancing program is intended to remove many of the inequalities which are not needed for incentives, with a rather ruthless disregard for dislocations. What inequalities would he remove by a "voting program"?

In the first place he would have the government regulate monopoly prices. The monopoly profit is a symptom of scarcity, but far from functioning to remove its own cause, it functions to perpetuate it. The monopolist deliberately limits output. What light does Mr. Carver's theory give to the government regulator to assist him in the regulating process? The regulation of monopoly prices presents problems concerning the amount of reward which incentive necessitates—whether an increment of value, for instance, is in some cases essential to induce the taking of socially useful risks; concerning the extent to which protection should be given to the values of shares of stock already bought at prices based on monopoly power, even where such protection is not essential as an incentive; concerning the apportionment of the joint costs of the enterprise among the various classes of consumers. Suggestions on all these problems from a keen and original mind like Mr. Carver's would be most welcome. But they are not to be had. He takes the cynical view that regulators are politicians, and politicians all demagogues, and there is no hope for any really intelligent system of regulation. He favors regulation merely as a choice of evils, on the ground that the interests of politicians and of trust operators are not the same; "and, as a result of their pulling and hauling, prices will not be fixed quite so completely in the interest of the trusts but more in the interest of the trusts and the politicians" (p. 221).

Another feature of Mr. Carver's "voting program" is "the redistribution of unearned wealth " by " increased taxation of land values," and by "a graduated inheritance tax" (p. 766). Does "unearned wealth" mean all wealth which does not function as an incentive to production? And would Mr. Carver go so far as to tax all of it away for the purpose of a more equal distribution? If so, his " voting program ", little as he stresses it in this book, might far outweigh in its results his " voluntaristic " program. Let us examine briefly how far such a program would indeed go, what objections to its complete realzation can be found in Mr. Carver's philosophy (he is not explicit as to how far he would push it) and what other objections there might be, not voiced by him.

How far could taxation be pushed without checking the incentive to produce? Every tax, of course, diminishes somebody's real income, if not somebody's money income. In considering the effect upon incentive of the diminution of any kind of income, it is convenient to distinguish two different sorts of effects. The *prospect* of receiving an income may stimulate one to work or to save; the *past* receipt of income may induce one to save without much *prospective* income as a further inducement. The first effect depends upon the sort of income, the second upon its size. A rich man, in other words, may be induced more easily than a poor man to devote part of his wealth to the creation of capital equipment, by investing it, and consequently the concentration of wealth may conceivably result in greater production quite regardless of whether the rich man originally received his income by way of inheritance, " rent ", interest or profits. Before discussing this matter, let us turn to various forms of taxation to ask whether they would be likely to lessen the *prospective* motive to work or save. No complete discussion is attempted here, merely a summary of Mr. Carver's views with brief comments thereon.

Inheritances in excess of a certain amount could be quite severely taxed, even to the point of complete confiscation of the excess amounts, apparently, without diminishing the motives which the prospect of leaving wealth furnishes to one who leaves it.[1] Income due solely to the ownership of urban land (apart from improvements) is pure surplus above incentive, and its taxation would not diminish the supply of anything, and therefore would increase no prices (p. 634). The same is true of a tax on the net profits of a monopoly (p. 636). Here again, as in the discussion of price regulation, Mr. Carver fails to analyze the distinction between the net monopoly profits and mere

[1] *Essays in Social Justice*, pp. 322-3.

competitive profits. Interest is essential to induce the saving of capital, hence any taxation of it would reduce saving, diminish the supply of capital equipment, raise prices and lower the demand for labor, and therefore lower wages. Yet by Professor Carver's own analysis (pp. 544–50, reprinted from his earlier book, *The Distribution of Wealth*), it is only the marginal savings which require the full interest now paid to call them forth. It would seem to follow that a tax on the interest received by the "intramarginal" saver would not reduce the *prospective* motive for saving; and that a *general* tax on interest would reduce the prospective motive but slightly. This last conclusion has been drawn by A. B. Wolfe,[1] but Mr. Carver thinks that "such a conclusion is of doubtful validity." One reason he gives is an assertion that "marginal saving takes place . . . . along an extended line and not simply upon a single point on that line." This assertion rests on the premise that "every saver is probably a marginal saver to some extent". Whether it is a complete answer to Professor Wolfe's more extended argument to the effect that marginal saving takes place along only a short line, may be left to the judgment of the readers of both.

But Mr. Carver has another answer, which comes nearer to the *non-prospective* motive for saving. If interest were taxed away, "it would reduce the incomes of those who had shown the propensity to save, either automatically or for the deliberate purpose of getting interest. They would therefore have less from which to save. Granting that others would find their incomes correspondingly increased, still, these would necessarily be the ones who had not previously saved much capital, and the probabilities are against the assumption that they will now save enough to compensate for the diminution in the amount saved by the previous savers." It will be noted that Mr. Carver uses the argument of the non-prospective motive, not to show that the rich as such are more likely to save, but that the interest-receivers, not because they are rich but because they have shown a saving propensity, are more likely to save again than are others with the same incomes. It may be questioned to what extent the present interest-recipients are such by reason of any "propensity", to what extent it is because they started with more money; the existence of the non-interest-receiving class might perhaps be explained just as plausibly on the hypothesis that they never received enough income to permit them to save, as on the hypothesis that they lacked as much of a saving propensity as the rest.

[1] *Quar. Jour. Eco.*, vol. 35, pp. 1 *et seq.* (Nov., 1920).

However that may be, the non-prospective motive presents a real problem. By assisting the rich to coerce money from the poor, the government may perhaps furnish no *prospective* stimulus to induce the rich to do anything productive *in order to get* that income, yet the money so coerced may be used to direct industry into the construction of of additional productive equipment, which will benefit future generations, rich and poor alike. If this money had been diverted instead into the hands of the poor it would have caused industry to be directed, not into the production of so much additional material equipment, but into the production of more goods which would have been consumed by the poor. Such is the argument for concentration. It is not Mr. Carver's—his only use of the non-prospective motive argument is in the passage quoted. In the form above he neither advances nor refutes it; yet, if valid, it would make against his own equalizing program. It is an argument which cannot be ignored in considering a reduction of the inequalities in our present distribution of wealth. It is in effect an argument that the compulsory power of government (for all property incomes are derived from the exertion of that power) should divert funds which might otherwise be turned to the poor, to the rich instead *en route* to a voluntary diversion by the rich into a capital fund; on the capital fund so provided, the rich are to be paid interest by the poor, but this interest the rich will voluntarily re-invest, and so on indefinitely. With each new addition to the productive equipment, society will be able to pay the poor more; but if it does so, less will be added than otherwise to the capital fund in the future, and the potentiality of rewarding the poor for their enforced abstinence later will not be increased so much. If this were pushed to its extreme conclusion, the poor would be kept down perpetually to the subsistence level in order to increase the potentiality of bringing them above it. In this extreme form, the policy defeats its own end, just as excessive saving by an individual defeats its own end of adding eventually to his spending power. On the other hand if no consideration at all is given to this non-prospective motive, it is possible that the poor would soon be worse off than otherwise. One would like to see the subject discussed in all its ramifications. But one will not find the discussion in this book.

But these considerations which have to do with incentive are not the only considerations which can be advanced to stay the hand of a drastic policy of equalization by taxation. Once it is settled how far taxation could be carried in an equalizing direction without checking incentive to production, other considerations may be urged against carrying it so far. At the very threshold of the discussion, it will be urged that any taxation for the deliberate purpose of equalizing wealth violates the fundamental canon of taxing "according to ability to pay", sometimes known as the "faculty" principle. Were taxation to cut down those large incomes which do not function as incentives and to leave untouched those equally large incomes which do, the recipients of the two would not seem to be taxed according to their respective "abilities", which are equal—unless, indeed, we accepted John A. Hobson's definition of "ability" as "ability to pay *without shifting the tax to the consumer*".[1] Moreover, as between a high and a low non-incentive income, the "ability" principle would require taxes which would still leave a discrepancy between the two incomes after payment of the taxes. The principle of equalization (except where incentive forbids) would wipe out both incomes. More accurately, it would seize all the non-incentive incomes in excess of the average, and would distribute them to those who receive less than the average. This it would not necessarily do in the form of a money dividend; but the use of the taxes for public purposes would increase the real incomes of the public, or of some portions of it—if only of that part of the public which finds satisfaction from municipal jubilees or from the existence of large navies or costly post-office buildings. What would Mr. Carver do? In his principal discussion of taxation,

[1] Of course "shifting" takes place through an increase in the price of a commodity or service and this increase, in turn, takes place either through a diminution in production or through a failure of production to increase in the face of an increasing demand. It is only a tax of the kind which diminishes the incentive to produce which would seem to be susceptible of "shifting." When taxes of this sort are imposed, however, it is the consumers of the products who really pay it. And there is no reason to suppose that the consumers of products have abilities to pay taxes proportionate to the incomes received by those who sell them the products. In other words a tax levied on the principle of "faculty", without discrimination between incomes which function as incentives and those which do not, defeats the very principle upon which it purports to be levied, for it burdens those of little "ability to pay." This fact is well expressed by one of the foremost upholders of the "faculty theory", Professor E. R. A. Seligman, (*Progressive Taxation in Theory and Practice*, second ed., 1908, pp. 299-300). In discussing the relative merits of proportional and progressive taxation, he says: "It is only in so far as we assume that so-called direct taxes remain where they are put, that the considerations of faculty or ability are of any weight. For the purpose of the theoretical discussion it may be taken for granted that the problem of progression *versus* proportion must be treated on the hypothesis that the assumption is true. When we come to construct a progressive scale in practice, however, we must be careful to ascertain how far the assumption conforms to reality. A progressive scale of taxation which does not reach individual faculty at all is as unnecessary as it is illogical."

he is considering it as a necessity of government, not as an instrument of equalization. Nevertheless he rejects the "ability" theory on the ground that it violates, in his opinion, the utilitarian principle of least sacrifice. Taxation of a sort which represses desirable industry should not be resorted to, he thinks, until the possibilities of non-repressive taxation have been exhausted. Confining himself to non-repressive taxation, he undertakes to demonstrate that as between two non-incentive incomes of different sizes, less sacrifice is caused by taxing the recipient of the higher income than by taxing the recipient of the lower, until the higher is reduced to the level of the lower (p. 656). That is, each dollar taken from the richer man causes less sacrifice than one taken from the poorer, as long as the untaxed portion of the former income still exceeds the latter. Mr. Carver, then, would depart from the "ability" principle, and would not necessarily leave intact a discrepancy between the higher and the next higher of various non-incentive incomes. If the government needed income as great as the difference between the two, it should all come from the top income, which would thus be reduced to the size of the next. But even if the government did not need so much for its regular expenses, Mr. Carver's logic would lead to the conclusion that as long as there are any discrepancies between non-incentive incomes, less sacrifice will be occasioned by pushing taxation still further, and using the funds for the benefit of the recipients of the lower incomes. For not only, according to this logic, would each dollar taken from the rich cause less sacrifice than a dollar taken from the poorer, but each dollar taken from the rich would cause less sacrifice than that which would be relieved in the poorer by adding a dollar to *his* income—until equalization resulted (except, always, for the incentive incomes). Yet Mr. Carver does not push his logic so far. He accepts instead the canon "that the taxes should be as little burdensome as possible" (p. 628). But if making *taxes* more burdensome results in making something else less burdensome to a greater degree, there seems no more reason for Mr. Carver's clinging to this canon than to that of "ability to pay." Whether or not one accepts Mr. Carver's grounds for rejecting the "faculty" theory, however, it must be remembered that that theory judges taxes by comparing the amounts actually paid by different individuals, without making any comparisons of the incomes remaining after the taxes are paid. If the discrepancies in the incomes remaining are to be justified, well and good; if not, why should taxation hesitate to remove them, unless some other instrument happens to be more appropriate? The payment of the taxes affects the sizes of the incomes. To leave that effect out of account, and to consider only the amount paid, instead of the amount left, as the "faculty" theory does, is to take a distorted view of the matter. It is like comparing the amount of change handed by a street-car conductor to various passengers, without taking account of how much he has left from their payments after giving them the change. The payment of $4.95 to one and of five cents to another would seem to be unjustified discrimination if we leave out of account the fact that the former had paid the conductor a five-dollar bill and the latter a dime. By similarly leaving out of account the fact that a man with a $10,000,000 non-incentive income and the man with a $10,000 one have been given these incomes by legal arrangements (i. e., by the government), the "faculty" theory makes it seem monstrous to compel the former to pay a tax of $9,990,000 and the latter of nothing. Yet as "change" for the property rights given by the government, the appearance of monstrosity disappears—unless there is some other justification for the discrepancy.

That brings up another ground for maintaining some of the inequalities, even when they do not add incentives to production. The rich man's habits may have made some things necessities for him which the poor man cares nothing for. Hence the gain to the poor man from equalization is less, psychologically, than the loss to the rich of his accustomed satisfactions. Mr. Carver admits the point as an argument against his taxation principle of reducing the rich man's income to the level of the poorer man's before starting to tax the latter. He admits it, but dismisses it, and it seems to me that both his admission and his dismissal oversimplify the problem raised. His admission is too wholesale, for while there are some wants whose non-satisfaction is particularly painful only to one who is accustomed to satisfy them, there are other wants whose non-satisfaction is painful wholly regardless of whether they have ever been satisfied. Such is intense physical pain, even when one has never been accustomed to buy the means of relieving it. On the other hand the problem cannot be dismissed by asserting, as Mr. Carter asserts, that at the end of a generation the standards of the rich and the poor would be equalized (p. 655). Such characteristic disregard of all but long-time considerations brings slight comfort to the man who has to wait until the passing of his generation (till his own death, in other words) before he ceases to suffer from the taking away of his accustomed satisfactions.

Another argument against leveling all those inequalities which fail to serve as incentives, is the argument known as that of "vested rights" or "legitimate expectations." One who has paid the full market value for a right to squeeze income out of the community seems to have more claim to sympathy when deprived of that right than does a man who parted with nothing for it. If we allow him to continue to get the income for that reason, even though it does not function as an incentive, we are doing it in effect on the ground that he needs it more than would one who had not paid, or at least that he "deserves" it more. The argument has weight, but seems to justify more study than is usually accorded to it. The "vested rights" of property are protected by law from some vicissitudes. But the law leaves them exposed to many others—such as competition, the constitutional exercise of the police power, the increase in the cost of operation (due perhaps to the government raising of railroad rates) and the falling off of demand. Moreover there are "legitimate expectations" which have not crystallized into property rights, such as personal skill acquired at great cost, or such as an ordinary job. To be deprived of these expectations may cause fully as great hardship as any destruction of a property right.[1] These rights do not now find protection. In fact it would be impossible to afford a complete guaranty to all of them, or even to all property rights, against all shrinkage of value. Frequently it may be true that to preserve one value (e. g. the value of railroad securities) it may be necessary to curtail another (say the property of the shipper who has to pay the higher railroad rates). As long as this is the case it may do more harm than good to "legitimate expectations" themselves to protect them against certain sorts of changes, while leaving others exposed to diminution from changes of a different sort. The ones which are exposed might be partly protected by less rigidity in the protection of the unexposed. The whole problem is another of those which fails to interest Mr. Carver. It concerns only things that happen in the interval before the "long-run" tendencies, with which he is concerned, have time to work themselves out. Meanwhile it may be observed that the problem is not raised by all proposals for bringing about greater equalization of incomes. It is not raised, for instance, in any of the proposals to prevent future growths of inequality—proposals to tax inheritances, or to tax future increments in land values.

In the case of inheritances, however, Mr. Carver suggests that certain grounds against drastic reductions would become apparent by "con

[1] Cf. the very suggestive article by Professor James H. Tufts in 21 *Columbia Law Rev.* 405 (May, 1921), "Judicial Law-Making Exemplified in Industrial Arbitration."

sidering the family rather than the individual as the unit of society, and considering the family as a permanent unit unaffected by the brevity of individual lives" (p. 122). But obviously no amount of "considering" will make the family such a permanent unit, as long as social custom and biological law make the cooperation of members of other families essential to the reproduction of offspring. But Mr. Carver himself in 1915 considered this argument for inheritance no bar, under modern conditions, to a very drastic tax on inheritances in excess of what is needed to maintain the family in comfort.[1] And in the present book, as we have seen, he favors a distribution of "unearned wealth" by a graduated inheritance tax (amount not specified).

The owner of every dollar has, by virtue of his law-created right of ownership, a certain amount of influence over the channels into which industry shall flow. Increased buying of one product will make it worth while for more industry to flow into the production of that product rather than elsewhere. This is pointed out time and again by Mr. Carver. It is what he calls the "method of price persuasion" as distinguished from the "method of governmental compulsion" (p. 208). To call this "persuasion" rather than "coercion" is to use the same logic as that which would conclude that the tobacco tax is paid by persuasion rather than by compulsion. Whatever we call it, the fact remains that the business man will divert his energies into the channels where they will result in the production of goods of high market value, and out of the channels where they will produce goods of low values, if costs are the same in each. And the high value is partly a result of the demands of the owners of dollars. In producing the goods of higher value, thinks Mr. Carver, the business man is satisfying the desires of the community more completely than he would be by producing goods of lower value. The "marginal utility" of the cheap goods is lower, because the supply is already sufficiently great to satisfy the more pressing wants for it (pp. 351–2). The community may be mistaken in wanting the goods (pp. 485 and 55–57), but if not, the business man who pursues his own interest will be doing the most good, for he will be satisfying the most pressing wants. The channels of industry are governed by the "democratic voting" of those who vote with their dollars instead of with ballots;[2] and the result is the satisfaction of the most wants of the community. But what is "the community" whose wants are thus satisfied? It is not a single

[1] *Essays in Social Justice*, pp. 322–3.

[2] *Ibid*, pp. 112–125.

sentient being, but a name given to various individuals who have wants. It must be obvious that the individuals with the most dollars exercise the most control over the channels. This Mr. Carver recognizes,[1] and replies that the rich man (if deservedly rich) *ought* to have more control. This may be true; but it does not prove that the result is to satisfy the needs of the *members* of the community in the order of the intensity of those needs. A less pressing need of a rich man will have more influence over the channels than will many a more pressing need of a poor man. This may be justified on various grounds—in fact, it would be difficult to escape it altogether without complete equality of incomes—but the grounds on which it cannot be justified are that it is the result of "democratic voting" (which in ordinary discourse implies "one man one vote") and that it satisfies the more pressing wants before the less pressing.

It is not essential to Mr. Carver's case to make the arguments described above. There is much force in the contention he makes in his somewhat heated reply to Henry Clay's statement of the assumptions underlying the *laissez-faire* philosophy (pp. 741–4). Mr. Carver contends that one may quite consistently believe it harmful for the government to meddle consciously with the channels of industry, without believing that the channels taken in response to market demands are the best conceivable. One has only to believe that the channels fixed by governmental policy would probably be worse. They might be thought worse without assuming the desirability of satisfying more fully the wants of the rich, merely because it might be thought that the government, in spite of universal suffrage, would not force industry into the channels really desired by the voters, and, even if it did, would cause incidental damage and loss in the process of meddling. Yet government officials at various times have to make decisions as to the relative desirability of different channels of industry; and in making these decisions they can get no help from the market demands. It would be helpful if some study could be made of the problems involved which would furnish a more illuminating guide than Professor Carver's cynical conclusion that all public officers are politicians, and all politicians are a bad lot anyway, whose only aim is to try to catch the most votes. Decisions as to the channels of industry have to be made in the course of regulating the rates of monopolies and spending the public revenue. Many a rate case turns on the question whether a large share of the joint costs of the railroad

[1] *Essays*, p. 123; *National Economy*, p. 485.

ought to be borne by one sort of traffic and a smaller share by another, or vice versa. The answer to the question does not depend upon the market value of the respective services, since their market value will depend upon the answer given by the commission. Whenever an appropriation is made for a governmental expenditure, the question is no other than that of what sort of activity shall be promoted by the government's money demands. Since the working out of some sort of technique, if that be possible, would be helpful in answering these necessary questions, and since governments are likely to try their hands at still further control over the direction of industry, it might be well to examine somewhat more closely than does Mr. Carver the precise respects in which the "natural" channels fall short of perfection. If such a technique could be worked out, those officials who do meddle with the channels would have less excuse for guiding their actions by demagogic motives alone.

As already indicated, the rich man will always be in a position to satisfy his wants more completely than the poor man, as long as we continue to have rich and poor. But granting that a particular uneven division of income is desirable at a given time, it would be possible to divert the channels of industry to the advantage of the poor, without destroying the inequality in the money value of the relative shares. If the supply of working clothes were increased, by governmental intervention, and if their price consequently fell, while the supply of expensive evening clothes were diminished until their price increased, the workman would be able to buy more goods with his same money income, and the rich man fewer. The workman would have the same number of dollars worth of wealth, but more things. His real wealth would increase, the rich man's decrease. *How much* the wealth of either has changed we cannot say, for lack of a unit of measurement. In the abstract terms of economic theory, what has happened is that the consumer's surplus of the working man has increased, that of the rich man decreased. But again we have no way of measuring the change. That the result is to increase the sum total of human satisfaction may perhaps follow if we assume that the wants of each are equal to those of the other, since the workman's wants are less fully satisfied than the rich man's. But suppose we have a case where there is no such clear division between rich and poor. Suppose the government contemplates a diversion of industry from the production of books into the production of soap. There may be a net gain or a net loss from the change, when we take account of the conflicting interests of the two sets of consumers and of the two sets of producers, the collateral effects on the production of other things, and the loss in effort and irritation involved in the governmental process of effecting the change. Until economic science has developed some method of measuring changes in human satisfaction resulting from an increase in the production of one and a decrease in the production of another article, public officials will act pretty much in the dark. But the existence of this important economic problem is concealed by the common but fallacious doctrine of Mr. Carver and many other economists, that "the community" wants additional supplies of various goods with an intensity which varies with their market values.

The channels into which industry shall flow, then, as well as the apportionment of the community's wealth, depend upon coercive arrangements. These arrangements are put in force by various groups, some of whom derive their coercive power from control over governmental machinery, some from their own physical power to abstain from working. The arrangements are susceptible of great alteration by governmental bodies, and governments are concerning themselves more and more with them. Important interests are affected by the shape that these arrangements shall take. It is difficult to measure the interests, and even if they could be measured, there are no simple rules for determining how conflicts between them should be settled. The "principles of justice" supposed to govern courts do not suffice. Whatever accepted "principles" there may be, scarcely envisage the problems. Should they be settled on the basis of an enumeration of the persons affected? Representative government with a democratic suffrage is a crude (a very crude) device for bringing about settlements on this basis. Yet it may be doubted if the basis is a satisfactory one. Moreover the interests of vast numbers of persons outside the area where any one government holds sway may be affected by its decisions; and these interests at present obtain no representation in its councils. If the area is one rich in natural resources, it makes a great difference to many who live elsewhere how the concessions are apportioned, whether the resources are exploited at all or are locked up, how they shall be rationed (in case the supply, at the price charged, falls short of the demand), and what government shall control the disposition of any revenues derived from their taxation. Since the foreign interests have no representation in the local government, we find them bringing pressure to bear on it through the foreign offices of their respective home governments. We find attempts to formulate "principles" concerning concessions (such as the "open door"), and we find a desire for annexation. We find the foreign governments disputing with one another over these matters, which contain the most fertile seeds of modern warfare. All such problems of democracy, representative government, international economic conflicts and their adjustments, fall properly within the scope of a treatise on *The Principles of National Economy.* They are not discussed by Mr. Carver.

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