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You Get What You Pay For: Historicizing Business Metaphors of Government, Principles of Justice in Taxation, and “Benefit Theory”

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YOU GET WHAT YOU PAY FOR:
HISTORICIZING BUSINESS
METAPHORS OF GOVERNMENT,
PRINCIPLES OF JUSTICE IN
TAXATION, AND “BENEFIT THEORY”

Mindy Peden

The Idea of Government as a Business Business metaphors flourish in contemporary conceptions of democratic government. George W. Bush, upon his 2004 reelection, repeatedly used the term “political capital” as a synonym for mandate.¹ One blogger has suggested that government is “hardly different from the real estate market,” and many writers have commented on the equation of citizens and consumers in response to such thinking.² Increasingly, especially within the US context, the idea that government should take a cue from the business world and operate on its principles has normalized in public thinking. The appeal of this way of viewing government is that it privileges what have come to be seen as good ideals for businesses — efficiency, balanced budgets, creation of demand through advertising, etc. However, when politicians, scholars, and citizens invoke the idea that representative government looks like a business or assert that governments can be run on market rationality, they are accepting an approach to the very meaning of representation and citizenship that is disputed among political theorists in its conceptual relationship to democracy. Treating government as a business and operating as if it should be run that way inverts the long-standing notion that state sovereignty is its own special thing, especially in societies self-reflective of sovereignty derived from “the people.” Unexamined assumptions that government should follow the logic of profit-making businesses (because the model is presumably not

based on failing businesses) fail to account for the fact that citizens may desire other socially useful goals for states besides running a profit. Moreover, it promotes a view of the relationship between taxation and democracy that suggests that people participate in paying taxes in order to receive services from the state, a view that even the founding fathers of liberal public finance wanted to move away from, though, as I show in this paper, were unable to do fully. This business and consumer paradigm can be seductive and its assumptions are reasonable on the surface: after all, is it not at least partially true that taxation is the price we pay for the benefit of government, as important thinkers ranging from Thomas Hobbes to John Locke have maintained?

Problems with the Idea The idea that government should be run like a business is a significant component of the encroachment of neoliberal rationality on all forms of life. Foucault noticed the increasingly imperialistic tendencies of neoclassical economic models of persons and made it a significant element of his work on governmentality.³ From this critical perspective, and with serious commitment to naming the discursive formations that genealogically give rise to such thinking, the modes of organizing and explaining the social and political world have been noticeably colonized by conceptualizing humans as *homo economicus* in an “essential,” “fundamental,” or “natural” sense. From a political theoretical standpoint, the idea that government should be run like a business suggests an entirely different conception of political life than a commitment to political democracy.

This problem can be seen most clearly when we look at how Adam Smith and John Stuart Mill tried to think through the relationship between taxation and representative government. By trying to think outside of the idea that states should be run like estates, as Smith had suggested in his view on taxation, Mill was questioning the idea that government should be run like a business. Relatedly for this paper, he was questioning the idea that justice in taxation should be treated from the perspective of benefits received from the government, or as it is sometimes known, the principle of interest. Instead, he developed the principle of ability to pay as a way to think about how to conceptualize the basis upon which the state’s sovereign right to tax

rests. Though he was able to develop a different, and many think superior, principle of taxation, Mill maintained a commitment to the core assumptions that the benefit theory model entails when he amended Smith's interest principle.

Mill's first assumption is that of a presumptively just market or, more accurately, an assumption that inequality of wealth is a result of decisions individuals make rather than the result of structural features. This assumption has been disputed by heterodox economists and political philosophers, but such debates have not been reflected in US national conversations.⁴ Involved with the assumption of just markets is the tendency to not see how thoroughly markets rely on the state for protection and standardization, especially with regard to money creation.⁵ The third assumption is to imagine citizens as consumers rather than producers of government. This gives rise to one of the key elements of neoliberal governmentality from a Foucauldian perspective — the increased focus on management rather than government. While Foucault observes this wryly, there are, I suggest, reasons to want to govern and be governed rather than manage and be managed. Political theorists have long investigated the relationship between concepts like freedom, equality, and justice within the framework of government, a decidedly different term from management, which, incidentally, has no similar tradition in ethical and political investigation from a heterodox perspective. These three related issues combine to suggest that the model of government that an analogy of government to business assumes may be inimical to the spirit of representative government that concerns itself with ideas of freedom, equality, and justice.

Taxes as the Price We Pay for the Benefit of Government Foucault's critical engagement with neoliberal rationality helps us to understand what is at stake in assuming our models of thinking to be natural or immutable, as in the case of a new tendency to conceptualize government as a business. But, in order to understand that this conceptual orthodoxy came about not out of some evil scheme, but by careful thinking that made certain assumptions about the world that are disputed, this paper traces one aspect of neoliberal rationality and the encroachment of neoclassical economic ideas

on all forms of life — the idea that taxes are a price we pay for the service of government. The questions of what constitutes a tax, how we define it theoretically and practically, and what it means have been far more puzzling than most scholars let on. Somewhat strangely for this paper, most people agree that taxation is, and should be, distinguished from and defined against fees for services, not the least of reasons for this is the view that the authority to tax is a sovereign right, even in representative governments. Theorists have long argued that taxes are not payment for services in the sense that fees would be, but continue with the core assumptions that the benefit view produces.

That is, payment of taxes can be seen as conceptually distinct from what one might receive as a result of said payment; the relationship of tax payment is not a sale in the everyday use of the word. This is precisely because the legal right to tax is foundational of states and is established by sovereignty rather than subject to secondary justifications. Taxation has taken on many different forms throughout time and space, ranging from the monetary to the bodily (i.e., cutting off limbs as penalty for failure to procure rubber in the case of the Belgian Congo's rubber tax), from progressive to regressive, and from applying to a small number of people to applying to all people. For this reason, taxation is difficult to define because it seems to matter not only who is taxed and why, but also who is doing the taxing. There is a reason that taxes have been the source of so many fundamental critiques of specific governments — people notice how they are taxed at such a deep level because, more often than not, that is their primary interaction with a government that may be seeing them as a subject or a citizen.

At the same time that the power to tax is foundational, the dominant approach to taxation has been based on a concept of benefits received, or what one gets from government and hence from one's taxes. The importance of this anomaly may not be immediately apparent, and is the subject of this paper. Contemporary debates around taxes have significant uncertainty as a result of problems articulating a just theory of taxation, the programmatic conclusions of which are unacceptable for many people because they involve a critique of strictly *laissez-faire* approaches to economics. The alternative to a principle of benefit received is "ability to pay," which can be understood in varying and sometimes inconsistent ways. One

way to understand the principle of ability to pay is that it requires a complete redistribution of wealth, whereby citizens pay to a common stock according to their abilities, but receive fair and equal consideration in the reward of government. In this sense, one programmatic conclusion to the question of just taxation in a democracy based on a principle of equality looks much like Marx's notion of what socialism (not communism) would look like. But this is not historically and theoretically what ability to pay means in liberal economics.

In this paper, I perform a close reading of Adam Smith's and John Stuart Mill's thinking about the question of taxation. In one dominant approach to public finance, Mill's approach to and critique of Smith's principles of taxation buttress what has become known as the overthrow of the benefit theory of taxation. Contrary to this narrative, I argue that Mill's overthrow, as it is often known, did not in fact amend what was ostensibly problematic about the concept of benefit theory, but rather continued its line of reasoning. Further, contemporary thinkers interested in the role of public finance in a democracy have often continued to employ the deep assumptions of benefit theory while simultaneously claiming that it no longer offers a coherent view of the role of taxes in a democracy. Looking carefully at the logic of these canonical approaches to taxation helps explain why contemporary approaches to taxation in democratic thought have often modelled citizens as consumers, and therefore see government less as government and more as management, perhaps unconsciously, and have presumed free markets as just *a priori*. It also helps us to understand how powerful the business analogy to government has become.

The Embedded Tradition of Benefit Theory Many contemporary democratic theoretical approaches to taxation derive from sources that may be ill suited to the purpose of democratic theory itself, which suggests that democratic government is based on a theory of citizenship whereby citizens both consume and produce government, so to speak. Democratic theory can be variously understood as procedural, substantive, or discursive. I make the assumption that democracy is not merely procedural in the sense that rule "by the people" in a fair system of representation always yields democratic

results; that is, democracy is not only the result of decisions by people, but includes normative content in the sense that end-state results do matter for the meaning of democracy itself. From this perspective, taxation is not merely a public policy issue but a theoretical one with fundamental implications for what we mean by democracy. This is in contradistinction to the dominant view that triggered the rise of the discipline of public finance as distinct from not only political philosophy, but usually political science as well. The tradition of public finance in the United States depends heavily on the work of benefit and utilitarian theories that emphasize a fee-for-service approach to governance that is not only theoretically ambiguous, but often indistinct about its relationship to democracy in practice. This tradition tends to conceive of government as having a managerial role rather than a governing one. In opposition to this view, the Honourable J.J. Spigelman, Chief Justice of New South Wales, has bemoaned the advocacy of “new public management” to replace “public administration.” His concerns reflect my own:

It is important to recognize that a person's interest as a ‘consumer’ is only one part of a person's status as citizen. The consumer analogy has become, in many respects, a feral metaphor that has acquired a disproportionate degree of prominence. Consumers have desires or needs. Citizens have rights and duties. The perspective of citizenship is of greater significance for many areas of public activity than the perspective of consumerism ... Human life cannot be characterized simply as a series of consumer choices ... The courts do not deliver a ‘service.’ The courts administer justice in accordance with law. They no more deliver a ‘service’ in the form of judgements and decisions, than a Parliament delivers a ‘service’ in the form of debates and statutes.⁶

Despite the prevalence of this “feral” metaphor in the contemporary world, it has never been a comfortable fit for political thinkers, especially ones interested in political economy who helped to define the field of public finance through their work.

To this end, standard fiscal histories suggest that, prior to John Stuart Mill, theories of taxation were largely premised on the idea that taxes should be paid in return for the benefits of government.⁷ Many contemporary scholars seem to accept the reading of Mill that credits him with overthrowing this

benefit model of thinking about taxation. In general, this can be seen most clearly in the work of public finance textbooks; however, two contemporary scholars from philosophy and legal theory also follow this narrative. Thomas Nagel, a philosopher and legal scholar, and Liam Murphy, a legal scholar and taxation expert, critique aspects of Mill's overthrow and point to a related problem in the history of tax thought that has contemporary relevance. Nagel and Murphy argue that the fact that wealth is made possible only by the existence of the state means that individuals are not entitled to their pretax income in the sense that is often assumed. They argue that this sense of entitlement runs deep and is responsible for a kind of everyday libertarianism when it comes to thinking about taxes. Nagel and Murphy follow Adam Smith in pointing out that the effects of a tax policy are relevant to questions of its theoretical justification. They suggest that "a theory of justice cannot by itself approve or condemn a tax cut, for example; it requires some estimate of the effects of such a change on investment, employment, government revenue, and the distribution of after-tax income."⁸ This inaugurates one of their great insights into the problems faced by a principle of justice in taxation: what the relevant baseline for determining justice or fairness is. They point out that issues of justice are often framed in terms of vertical or horizontal equity. The tax base (i.e., what is subject to being taxed or is the baseline of theoretical investigations) can be any number of different things, though in modern societies it is usually pretax income or consumption that serves the tax base. Nagel and Murphy scrutinize this conception of tax base according to democratic principles, a move that in itself is welcome. The first of the principles is vertical equity, whereby what count are "fairness demands in the tax treatment of people at different levels of income (or consumption, or whatever is the tax base)." The second is horizontal equity, or "what fairness demands in the treatment of people at the same levels."⁹

Nagel and Murphy make an important point by isolating the baseline of pretax income as the problem in developing a just theory of taxation. In their view, property rights are "the product of a set of laws and conventions, of which the tax system forms a part."¹⁰ For this reason, they argue that pretax income has "no independent moral significance."¹¹ The idea that

people have full ownership of all that they earn in a market system can never be anything but incoherent and mistaken, since the market as we know it depends, in turn, upon government, and government must be financed.¹² Establishing a value to money, enforcing contracts, providing funds and tax breaks to businesses seen to be in the public interest — these are all ways in which modern markets cannot avoid relying on government. Because of this, Nagel and Murphy suggest that “all the normative questions about what taxes are justified should be interpreted instead as questions about how the system should define those property rights that arise through the various transactions — employment, bequest, contract, investment, buying and selling — that are subject to taxation.”¹³ They conclude that income comes with a certain degree of entitlement “only if the system under which it is earned, including taxes, is fair,” and that therefore, entitlement to (pretax) income cannot be “used as an assumption to evaluate the fairness of the tax system.”¹⁴

The question of entitlement is central to how government is theorized in approaches to taxation. Nagel and Murphy’s work is consistent with my own thinking on the subject, up to this point. We part ways, however, in one important sense. For these two thinkers, although they admit to having foundational differences in their views on political and moral theory,¹⁵ the aim of a system of taxation is clear: to reduce the market’s contribution to political and social inequality. They are clear that an unrestrained free market needs regulation and that the system of taxation is the best method of regulating. For them, “a capitalist market economy is the best method we have for creating employment, generating wealth, allocating capital to production, and distributing goods.”¹⁶ In assuming that pretax income is the basis of entitlement, we forget that the market itself is enabled by a system of laws, and thus we naturalize the effects of the capitalist market as presumptively just. For Nagel and Murphy, we cannot presume a just distribution in a market society but we can lessen the market’s inegalitarian effects through equitable redistribution. From my point of view, their argument is insufficiently critical of the market, though their intervention marks an important turning point in understanding taxation within the boundaries of liberalism. Nagel and Murphy represent a valiant attempt to rethink

taxation outside of the assumptions of the benefit model, but in assuming a free market rather than critiquing it, they also continue to reify the democratic state as a kind of business.

To understand how and why Nagel and Murphy can be helpful in thinking outside of a model of government as a business, but are not sufficiently helpful to my mind, we must turn to the tradition of thinking in which they have intervened. While Nagel and Murphy offer a new way of thinking about taxes, they subscribe to a narration of the history of benefit theory that suggests that in his account of taxation, Mill amended Adam Smith and overthrew the benefit model once and for all. Nagel and Murphy mistakenly think that the benefit model is dead, whereas their own work suggests that it is alive and well in its most significant assumptions. Nagel and Murphy lay out concerns with the free market that are absent in Smith and Mill, but their work suggests that even the staunchest critics of the flawed benefit model of taxation have been more influenced by its point of view than they appreciate.

Democratic (E)states: Adam Smith's Four Principles While it is generally assumed that J.S. Mill overthrew benefit theory, it is also well recognized that Mill's views on taxation were influenced by Adam Smith's work, to the point of pure appropriation. To understand this point, it is necessary to examine both thinkers in considerable detail. To begin with, Smith argues that the private revenue of individuals comes from three sources: rent, profits, and wages.¹⁷ Smith suggests that it is only fair that all aspects of economic activity be made to bear the burden of taxation. The problem with the distinction between the three sources of revenue, he points out, is that it is not always clear exactly where the tax penalizes.¹⁸ The observation that taxes do not necessarily fall on the source that is allegedly being taxed is an important one, but also the source of disagreement among early economists. The physiocrats, for example, thought that landowners paid all taxes because, by necessity, taxes came out of the only source of surplus: land. Smith responds to this argument in an interesting way by maintaining the assumption that public revenue is derived from surplus. By arguing that there are three sources of taxable revenue rather than only one, Smith continues the

physiocratic assumption that public revenue is derived from surplus, but argues that surplus can be found in three places, not just one. For Smith, then, it is not only possible but also proper that all three sources should be taxed. The emphasis on surplus suggests that there is a minimum right to property beyond which the state may make a claim (but not prior). In other words, Smith was not a libertarian in the stringent sense that he is often interpreted;¹⁹ the state, for Smith, does have a right to tax the property of people, but only according to principles of “strict justice.”²⁰

Beyond his argument of where revenue comes from, Smith’s contribution to fiscal thought chiefly consists in his articulation of four principles. They all appeared prior to his *Wealth of Nations*, but were never presented together. I will examine the first and fourth in more depth because they both have more contemporary resonance and are more directly relevant to the theme of conceptualizing tax-paying with a consumer-citizen model. However, a brief introduction to principles two and three are also needed. Principle two deals with certainty and nonarbitrariness; Smith suggests that timing, the manner of payment, and the quantity of a tax should all be “clear and plain to the contributor, and to every other person.”²¹ In some sense, this addresses the confusion and arbitrariness of taxation at his time, and its significance for today could be easily missed. However, a brief glance at the US tax code would suggest that clarity might continue to be an unachieved principle of taxation. For Smith, the principle of certainty was significant because many taxpayers were subject to the whim of the tax collector, and a degree of certainty would discourage corruption and insolence.²² Smith’s third principle suggests a similar concern and argues that the time and manner of payment of a tax should be convenient for the taxpayer.

By my account, the first and last principles resonate with contemporary debates about democracy, the first more obviously:

The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectfully enjoy under the protection of the state.²³

Both guiding principles of subsequent democratic fiscal thought — interest and ability to pay — can be found in this one complex sentence. On the surface, this appears to be a principle of ability to pay; it seems to suggest that each individual should contribute to the funding of the government in proportion to what they are able to contribute. In this sense, it foreshadows Marx's "from each according to his ability," though Marx's widely misquoted phrase refers explicitly to what is possible in "the higher phase of communist society" and not to what is possible under existing relations of production.²⁴ The second part of Smith's principle backs this up by suggesting that property is made possible only by the protection of the state, intimating that an individual's ability to pay is measured by some form of their wealth that is made possible only by the existence of the state in the first place. However, under this same principle, Smith goes on to introduce an estate metaphor for the principle, which adds some complication to this reading:

The expence [sic] of government to the individuals of a great nation, is like the expence [sic] 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.²⁵

Here we have the introduction of the interest or benefit principle to the more general maxim, which suggests that individuals ought to contribute to public revenue by virtue of their relative advantage, derived from the protection of the state. For Smith, interest and ability were mutually determining, but for subsequent thought they have been curiously dislodged from one another and seen as separate, often contradictory principles. The principle of equality in taxation in Smith's first principle has both a component of ability and one of interest, though the logic of their relationship suggests some circularity: proportionality of contribution is defined by interest, but this interest is in turn defined proportionally.

The use of the estate metaphor is also suggestive for contemporary debates: the difference between states and estates, ostensibly, is that they operate on different principles. One key element of this is that estates are businesses to be managed while states are, in theory, governed. Specifically, in a democracy citizens are both governed and govern in turn, while estates are usually

managed by one owner, and those being managed have little real input into their management. This unacknowledged distinction foreshadows the use of business metaphors in contemporary debates and simultaneously undercuts the principle of equality by suggesting that government finance can be deduced from estate finance. That is, Smith suggests here that the state is a kind of maximizing agent that exists not first and foremost to represent people but rather to manage them. Alternatively, the estate metaphor invites a view that the wealthy are obligated to pay more because of their interest. In this reading, the state is paternalistically likened to a landholder who provides the needs for all of the tenants. Though this reading may make us think of socialism, it is a fundamentally traditional view of the state in the sense that the wealthy are asked to contribute more but are not asked to become relatively less wealthy; not surprisingly, Smith's metaphor does not point to radical redistribution of wealth.

Theorists of taxation and redistribution have significant interest in interpreting Smith's first principle. As Harold Groves, a scholar of public finance theory, suggests:

It is the first of these maxims that entitles Smith to a place in the school of thought that features equity in its tax judgements and looks chiefly to net income as the index of tax capacity. It is true that the canon is ambiguous: it suggests both ability to pay and benefits received as the leading principle, and it could be used in support of a gross as well as a net income tax measure.²⁶

Groves insinuates that Smith leans more towards this second view, and that either proportional or progressive tax measures can be fair, depending on the interpretation. One approach to equality as fairness is to argue that richer people pay more, though in the same proportion as the poor. In other words, the rich pay the same percentage as the poor (of income), but because they have greater income they will necessarily pay more. In the case of a person who earns \$100 in a year versus one who makes \$100,000, if the rate is proportional at one percent, then the former pays \$1 in taxes and the latter \$1,000. Therefore, both persons pay the same proportion, but they pay different actual amounts of taxes. The second principle at play in Smith is

one of progressivity, in that rates increase with increases in wealth. In the above example, this might mean that the person who earns \$100 a year is at the very bottom tax group and therefore only pays one percent, but that the percentage of income that goes to taxes increases as income increases. A person who earns \$100,000 would be liable to a much higher tax rate, say 10%. Under this latter principle, the wealthier individual would now pay \$10,000. Groves argues that reading Smith's work as a whole leads to a resolution in favour of proportionality over progressivity. However, those interpreters inclined to make Smith a progressive tend to focus on Smith's observation that "it is not very unreasonable that the rich should contribute to the public expense, not only in proportion to their revenue, but something more than in proportion."²⁷ This seems to signify that Smith did recognize that money holds a differing significance depending on how much of it one has, and that this has an effect on fairness. For him, it was important that "the necessities of life occasion the great expence of the poor [and] the luxuries and vanities of life occasion the principal expence of the rich."²⁸

The last of Smith's four principles introduces an analogous problem. For Smith it is paramount that "every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the publick treasury of the state."²⁹ The idea is to preserve as much property in the individual as possible, within the limits posed by what is required for the running of the state.³⁰ One way that the state takes too much, he argues, is by taking unnecessary amounts of people's time in the collection process; that is, by making too many visits and thus keeping people from their work.³¹ Likewise, it may require a vast bureaucracy that eats up surplus revenue by employing countless collectors.³² Here Smith introduces two other ways in which this principle might be violated indirectly. The first "obstruct[s] the industry of the people" by taking money that would otherwise be used in the "maintenance and employment to great multitudes."³³ This worry continues today, and figures in contemporary discourse about the efficiency and desirability of taxing wealthy individuals and corporations too heavily.³⁴ The second important example that Smith lays out has simultaneously to do with evasion and the industriousness of people. Here, he somewhat oddly notes, "An injudicious tax

offers a great temptation to smuggling. But the penalties of smuggling must rise in proportion to smuggling.”³⁵ His concern with smuggling, though, has to do with his concern that “by the forfeitures and other penalties which those unfortunate individuals incur who attempt unsuccessfully to evade the tax, it may frequently ruin them, and thereby put an end to the benefit which the community might have received from the employment of their capitals.”³⁶ It is imprecise here whether his primary worry is the trouble of evasion or the fact that it forces people, again, to not invest their capital in ways that would ostensibly benefit others.

It is important to place Smith’s principles of taxation in their larger context. It is neither necessary nor important that individuals have a sense of themselves as being a part of this larger promotion of the wealth of the nation as a whole. Rather, the preservation of free institutions of exchange facilitates this without the cognition of individuals. Kings and ministers, however, “are always, and without any exception, the greatest spendthrifts in society,”³⁷ in one reading because they lack the self-interested rationality that characterizes individuals. Groves interprets Smith as suggesting that by spending “other people’s” money, governments are fundamentally inefficient and wasteful.³⁸ In my reading, this inaugurates a sleight of hand of modern economics: the idea that government resources are theoretically and empirically divorced from the resources of those people. For liberal political theorists, this could be restated as the myth of the public/private distinction. Furthermore, it goes against the assumptions, stated above, underlying Smith’s analogy between states and estates. Smith seems uncertain whether states are rational maximizing actors (like estates) or spendthrifts precisely because they lack the maximizing self-interest. However, Groves misinterprets Smith by taking his comment out of context. Rather, in the passage about spendthrifts, Smith seems to be referring to the character of kings and ministers as individuals, those who “pretend to watch over the economy of private people” while themselves personally being spendthrifts.³⁹ He goes on, then, to challenge them: “Let them who look well after their own expence, and they may safely trust private people with theirs. If their own extravagance does not ruin the state, that of our subjects never will.”⁴⁰ What is interesting about Groves’ misreading is that it suggests that Smith’s *laissez-faire* approach inter-

pretends government as not being sufficiently self-interested to look after the economy, when in fact Smith's point is more that kings and ministers cannot manage their own finances so should not be entrusted with the public's. Because kings and ministers are no better than the average individual at managing their affairs, by all accounts the individuals should be left alone, and thereby the wealth of the nation will prosper.

Mill's "Overthrow" When John Stuart Mill embarked on his own discussion of taxation in *Principles of Political Economy*, he began by quoting all of Smith's four principles. In fact, he appropriates them without interruption and in full, leaving good cause to regard Mill's work on taxation as an extension and refinement of Smith's rather than a serious departure from it.⁴¹ His most important act of refinement, to my mind, is his development of the equal sacrifice doctrine out of Smith's first principle. Also to be noted is the fact that Mill, like many after him, dismisses Smith's second, third, and fourth principles as self-evident and in need of little to no explication.⁴² I will return to this assumption later, particularly with regard to the fourth. Mill ostensibly solved the confusion over the interpretation of the first principle discussed above by introducing psychology into the picture. To this end, Mill developed a system for measuring equality and appeared to have liberated the equity question from the equality as interest or benefit-based debate. A generous reading of Smith would recognize that while he was firmly ensconced in benefit theory, he was gesturing towards the ability to pay doctrine that Mill formulates from the modification of his own first principle. This gesture was further developed by Mill, using an approach to taxation based on psychology developed by Jeremy Bentham.⁴³ Mill's approach suggests that equality can be achieved only by recognizing the inequality of the resources and talents of a population. Through this recognition, one can identify that "equal sacrifice" does not necessarily mean that each individual gives up equal value absolutely. In this sense, it foreshadows the concept of diminishing utility that observes that an individual values a dollar less as she becomes wealthier: a rich person would miss a \$5 tax less than a poor person. It does, however, assume both that the value of revenue can be measured, and that this value should be the foundation of any theory of taxation.

Mill's focus on equality is self-consciously a direct attack on the benefit theory of taxation. Mill points out that benefit theory leads to the question of who is most interested in the government — that is, who derives the most benefit from it. This is a necessary outgrowth of the theory because questions of how to order the tax system must refer back to the origin of the government. For Mill, "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."⁴⁴ The interest principle seems to Mill to be antithetical to the project of thinking about justice in taxation precisely because the point is that government interest cannot and should not be divided individually. Rather, he argues that it is most important to derive tax policy from the principle of equality, which he modifies from Smith's first principle.

For Mill, the importance of basing a system of taxation on equality reflects the larger point that equality ought to play a role in all aspects of government:

As a government ought to make no distinction of persons or classes in the strength of their claims on it, whatever sacrifices it requires from them should be made to bear as nearly as possible with the same pressure upon all, which, it must be observed, is the mode by which least sacrifice is occasioned on the whole.⁴⁵

This passage has been the source of much controversy in fiscal theory for good reason. Mill makes a case for equality, but by the end of the sentence also introduces something akin to Smith's fourth principle, which involves taking as little as possible from people. For Mill, it seems that the two are not mutually distinct. Because the principle of equality operates as sacrifice, it follows that least sacrifice would be a natural outgrowth of equal sacrifice. It is significant that taxes were best seen as a sacrifice that results in "suffering" for Mill, and that such inconvenience and sacrifice varies universally, but in a proportionate manner.⁴⁶ Therefore sacrifice has an element of intersubjectivity, which he notes but does not fully explain. Mill's intervention is crucial in the sense that he suggests first that equality is a goal for taxation, and further that this equality has a utilitarian base.

The basis of this view is slightly broader and can be gleaned from Mill's focus on distribution. Mill amends classical economics and the role of scien-

tific truth in political economy, for while “the laws and conditions of the production of wealth partake of the character of physical truths ... [and] there is nothing arbitrary in them,”⁴⁷ the distribution of wealth “is a matter of human institutions solely.”⁴⁸ This distinction between laws of production and laws of distribution does not make distributional issues any less predictable since human institutions, he suggests elsewhere, are also predictable if we know their antecedents.⁴⁹ While Mill was, in a sense, simply refining and expanding on the views of Smith and Ricardo, his addition that the laws of distribution are of an entirely different ilk suggests a point of entry for human agency. Production may work according to economic laws, but distribution is the product of laws made by humans. That is, while the effects of distributional institutions may be discoverable, they are very clearly for Mill the product of human hands. This means they are not only amenable to change, but are necessarily always in the process of change as the discretion of individuals affects their very being. In the case of taxation, this discretion could mean a number of things, including a radical reordering of wealth in accordance with the principle of equality, as suggested above. Passages in Mill indicate some socialist leanings,⁵⁰ though when seen in light of his actual prescriptions for taxation and his views on communism, an interpretation of Mill as a socialist is hardly tenable.⁵¹

A radical reordering of the distribution of wealth is hardly justifiable from a Millian perspective because Mill shared with other classical economists the assumption that the accumulation of capital is the “sine qua non of prosperity, progress, and the demand for labor.”⁵² Indeed, for him capital is the result of saving, which, in turn, should be exempted from taxation. For Mill “all capital, with a trifling exception, was originally the result of saving.”⁵³ For Mill, the distinction between productive and unproductive labour explains his views on exempting savings from taxes, and also sheds light on why he favours consumption taxes and proportional taxes over progressive ones.⁵⁴ Despite his refinement of the equality principle, Mill equates this equality with an equality of sacrifice that is to be measured not by what people acquire, but by what they spend. There is, for Mill, productive and unproductive consumption as well as production, and they are intimately related:

Whoever contributes nothing directly or indirectly to production is an unproductive consumer. The only productive consumers are productive labourers; the labour of direction being of course included, as well as that of execution. But the consumption even of productive labourers is not all of it productive consumption. There is unproductive consumption by productive consumers.⁵⁵

Examples of unproductive consumption include “pleasures” and “luxuries.”⁵⁶ Here, Mill is responding to arguments against taxing the rich on the principle that it will negatively affect the poor by coming out of their wages or resulting in a lost job. By taxing consumption, Mill asserts, the state will only hurt the person who benefits from the consumption in the first place:

No one is benefited by mere consumption, except the person who consumes. And a person cannot both consume his income himself, and make it over to be consumed by others. Taking away a certain portion by taxation cannot deprive both him and them of it, but only him or them. To know which is the sufferer, we must understand whose consumption will have to be retrenched in consequence. This, whoever it be, is the person on whom the tax really falls.⁵⁷

Going back to his differentiation between the laws of production and distribution, I suggest that Mill’s views on taxation are directly related to his defence of earned income as earned income that is justified *a priori* and presumed untouchable. Distributionally, unearned income is the site for potential public intervention because “law or custom may interfere to limit competition” with good cause.⁵⁸ For this logic, spent income alone can be deemed unearned, or more approximates this unearned increment. While Smith reasoned it difficult, and therefore inefficient, to tax the very poor, Mill suggested that while possible, it may or may not be a good decision. Here we see Mill’s differentiated laws of production and distribution in action: whether or not we can tax the poor is certain; instead, it is a philosophical and political decision. We see that both Smith and Mill favoured having the exemption of a minimum for taxes, but for very different reasons. Counterintuitively, it was Smith, not Mill, who was clearer on whether poorer people should be taxed at all. For Mill, there is some ambiguity between

Principles of Political Economy and his other works, though overall he seems to suggest that exempting poorer people would both encourage excessive consumption and violate their claims for representation. It is this latter point that confirms that Mill did not overthrow benefit theory, for the argument in *Considerations on Representative Government* is that no one should be exempt from taxation because it would be difficult to include the right of representation if a person or persons did not contribute to the public funds. For Smith, it is not that one would reward certain kinds of consumption, but that it is not even possible to tax "the necessary expence of the inferior ranks of people ... [because] ... the final payment of any tax upon their necessary expence would fall altogether upon the superior ranks of people" because it would mean, scientifically, a raise in wages.⁵⁹ It is a curious fact of the history of political thought that it was Smith, the father of laissez-faire economics, rather than Mill, the champion of representative government, that favoured proportionate taxation with a minimum exception.

Mill's portrayal of distribution as a site for human intervention leads to some ambiguities concerning the role of government in the economy. Mill seems overly concerned with the effects of taxation on industry, a concern that dominates contemporary literature on taxation. While Mill favours ability to pay, he argues, quite significantly, "no income tax is really just from which savings are not exempted; and no income tax ought to be voted without that provision."⁶⁰ Answering the argument that this privileges the rich, Mill replies that advantage:

Is bestowed on them only in proportion as they divert their income from the supply of their own wants to a productive investment, through which, instead of being consumed by themselves, it is distributed in wages among the poor. If this be favouring the rich, I should like to have it pointed out what mode of assessing taxation can deserve the name of favouring the poor.⁶¹

Interestingly, Mill may have a more insightful critique than first appears. Though he assumes that savings represent productive investment in the sense that others benefit from such investment, he seems to recognize that within such a conception it is difficult to not favour the rich. Further, in *Utilitarianism* Mill makes the provocative point that the rich do not benefit

from government more than the poor, and therefore cannot be more accountable through taxation, because “the rich would be far better able to protect themselves, in the absence of government, than the poor, and indeed would probably be successful in converting the poor into their slaves.”⁶² Following his own logic, taxation is not only a “sacrifice” but is also an evil in the sense that it can work against the very foundations of liberal economics. “Yet mere excess of taxation, even when not aggravated by uncertainty, is, independently of its injustice, a serious economical evil. It may discourage industry by insufficiency of reward.”⁶³ The importance of sustaining rewards may work against Mill’s own desire to see payment of taxes in terms of people’s ability to pay. As such, it seems to Mill unjust to tax profits “even though that kind of income may not pay more than its just share” because such a tax “necessarily diminish[es] the motive to any saving.”⁶⁴

This view suggests some ambiguity about the importance or even feasibility of *laissez-faire*. If distribution is a human institution, then it is always already the product of human hands. Leaving people alone for free exchange also has a built-in assumption about the earned nature of wealth. Mill clearly saw profit and saving as contributing to the greater good and therefore had difficulty making consistent his *laissez-faire* attitude towards production with a coherent view of equality in taxation. Though Mill had some misgivings about the role of competition, his utilitarian approach reinforces the cosmology that underlies *laissez-faire* approaches to the economy. Moreover, this cosmology is explicit. For Mill, “*laissez-faire*[sic], in short, should be the general practice: every departure from it, unless required by some great good, is a certain evil.”⁶⁵ Reflecting a similar argument to his views on government generally, Mill suggests that “in proportion as the people are accustomed to manage their own affairs by their own active intervention, instead of leaving them to the government, their desires will turn to repelling tyranny, rather than to tyrannizing.”⁶⁶ Though Mill apparently critiques the benefit theory of taxation, it might better be stated that he actually made it more complex by mapping the concept of ability to pay onto a system of economics that equates ability with the status quo, thus reinforcing long-standing hierarchies. Measuring ability by how much money one has both assumes that this wealth is justified and also that it is the outcome of realized

potential. While Mill insists that distribution is the product of human hands, he does not consider the possibility that production is as well. For Mill, government is, in some sense, a service, something from which we derive benefit and utility (in the short and long term), and it is therefore only fair that we literally pay it something in return. What is ambiguous is that while government is seen as a benefit, and the logic of such a benefit suggests that things done in return to the government by an individual are a part of the larger sense of utility introduced above by Mill himself, this is not what Mill explicitly says. Rather, we owe certain sacrifices for the maintenance of society. This throws into question the traditional history of fiscal thought that suggests that Mill overthrows the benefit theory precisely because, though he supports “equitable principles,” it is still in reply to the benefit of government that we must pay taxes at all.

Conclusion This paper has explored genealogically how government has been seen as analogous to a business in the works of two important thinkers of liberal public finance. But more significantly, it has tried to point out where the assumption of the relatability of government to a business has been consciously opposed, but unconsciously continued. In addition to the more obvious problem of the benefit theory of government is the fact that, despite attempts to think outside of it, Smith and Mill both continued with its core assumptions. Because the standard histories of liberal public finance suggest that benefit theory has been overthrown once and for all (and for good reason), we may be led to believe that the core assumptions of the model are discarded. I trace the logic of the assumptions in order to show that they have not been fully abandoned. The implications of modelling government as a business by thinking about taxes as fees for a service include the continuation of the assumption that the market is presumptively just and that citizens are essentially consumers of government. I trace this history in order to expose widespread assumptions about the nature of representative government, assumptions which I would like to question as suitable for democratic thought, but for which it is now sufficient to merely name and describe. The idea that through tax payment citizens “get what they pay for” both weakens the concept of democratic citizenship and advocates

market activity as presumptively just. The notion therefore seems to be that business is a good model for how we think about government and this in turn is a significant aspect of neoliberal governmentality.

Taxes may well be understood as payment for government services, but if they are, they are not logically distinct from “fees” for a service that any business or corporation could supply. This consumer model of democracy is in necessary tension with the concept of the democratic citizen in most understandings.⁶⁷ The idea that government finance should be modelled after estate finance (or that government not only can be “like” a business but is best understood that way) confuses management with government, a confusion made all the more serious by the democratic context. The implicit power issues begged by this analogy run counter to the very conceptions of individuals that the self-same theories imagine. The presumption of the justice of the free market accompanies the modelling of citizens as consumers, and in that sense this paper establishes how market rationality accompanies the theorization of democracy most notably where taxation is concerned. The contemporary acceptance of Mill’s concept of ability to pay as a marker of justice in taxation can be more clearly seen as problematic after examining Mill’s logic and the logic of his main interlocutor on the question of taxation, Adam Smith.

Notes

1. “President Holds Press Conference,” <<http://whitehouse.gov/news/releases/2004/11/20041104-5.html>> (accessed 2 December 2005). The term “political capital” has not been as popular among academics as “social capital,” but two examples of its use are B.J. Dickson, “Membership Has Its Privileges: The Socioeconomic Characteristics of Communist Party Members in Urban China,” *Comparative Political Studies* 33/1 (February 2000), pp. 87–112, and John Booth and Patricia Bayer Richard, “Civil Society and Political Context in Central America,” *American Behavioral Scientist* 42/1 (September 1998), pp. 33–46.
2. J.L. Wilson, “Running Government like a Business,” in *The Partial Observer*, <<http://partialobserver.com/article.cfm?id=1434>> (accessed 2 December 2005); M. Bunting, “Citizens or Consumers?” *Guardian Unlimited* (24 November 2003), <<http://www.guardian.co.uk/politics/2003/nov/24/society.publicservices>> (accessed 2 December 2005); S. Skapardas, “Turning ‘Citizens’ into ‘Consumers’: Economic Growth and the Level of Public Discourse,” *Center for the Study of Democracy*, Paper 03-07 (15 June 2003); Betsy Barnum, “Are We Citizens or Consumers? The Myth of Consumer Activism,” *Utne* (10 October 2003), <<http://www.utne.com/2003-10-01/are-we-citizens-or-consumers.aspx>> (accessed 2 December 2005).
3. M. Foucault, 2003. “Governmentality,” in P. Rabinow and N. Rose, (eds.), *The Essential Foucault* (New York: The New Press, 2003), pp. 228–245.

4. Mill himself, as I point out in this paper, understood scientific laws of distribution not as immutable but as a place where human agency intervenes to make decisions that can be ethical or philosophical. He did not, however, understand the laws of production that way and assumed that human agency could not intervene. This is precisely why, from an American standpoint, heterodox economics is considered heterodox; there is genuine hegemony of the idea under US capitalism that people are born naturally profit-making and should be left to make as much profit as possible. This either presumes scientific laws of production or chooses not to engage in alternate possibilities for production.
5. See, for example, the Chartalist tradition within political economy. Thank you to Mario Seccareccia for pointing this out to me.
6. J.J. Spigelman, Address to International Conference on Regulation Reform Management and Scrutiny of Legislation (9 July 2001), <http://www.lawlink.nsw.gov.au/sc%5Csc.nsf/pages/spigelman_090701> (accessed 2 December 2005).
7. Musgrave and A. Peacock, (eds.), *Classics in the Theory of Public Finance* (New York: St. Martin's Press, 1994) and J. Stiglitz, *Economics of the Public Sector* 3rd ed. (New York: Norton and Company, 2000). For example, Thomas Hobbes articulated this benefit principle in 1651 when he argued that "To Equall Justice, appertaineth also the Equal imposition of Taxes; the Equality whereof dependeth not on the Equality of riches, but on the equality of debt, that every man oweth to the Common-wealth for his defence," (Thomas Hobbes, *Leviathan* C.B. MacPherson, (ed.), (London: Penguin Books, 1968), p. 386). In *Spirit of the Laws*, Montesquieu writes that "the public revenues are a portion that each subject gives of his property, in order to secure or enjoy the remainder" (Baron De Montesquieu, *The Spirit of the Laws*, Thomas Nugent, (trans.), (New York: Hafner Press, 1949), p. 207. While Montesquieu argues that taxes should be invisible and fair, Locke argues that they should be based on consent: "It is true governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent—i.e., the consent of the majority, giving it either by themselves or their representatives chosen by them; for if any one shall claim a power to lay and levy taxes on the people by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government." (John Locke, *Political Writings* David Wootton, (ed.), (New York: Mentor, 1983), p. 189.)
8. L. Murphy and T. Nagel, *The Myth of Ownership: Taxes and Justice* (New York: Oxford University Press, 2002), p. 4.
9. Murphy and Nagel, *The Myth of Ownership*, p. 13.
10. Murphy and Nagel, *The Myth of Ownership*.
11. Murphy and Nagel, *The Myth of Ownership*, p. 74.
12. It is widely assumed that government finance must come from taxes. This may be misleading, and it is certainly historically inaccurate. On the role of debt in financing the American state, see Donald Stabile, *Origins of American Public Finance: Debates over Money, Debt, and Taxes in the Constitutional Era, 1776-1836* (Westport, CT: Greenwood Press, 1998).
13. Murphy and Nagel, *The Myth of Ownership*, p. 74.
14. *Ibid.*
15. L. Murphy, "Benificence, Law and Liberty," *Georgetown Law Journal* 89 (2001), pp. 605–665, and T. Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991).
16. Murphy and Nagel, *The Myth of Ownership*, p. 181.
17. A. Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, R.H. Campbell and A.S. Skinner, (eds.), 2 volumes (Indianapolis: Liberty Classics, 1981), p. 825.
18. "Many of those taxes, it will appear from the following review, are not paid from the fund, or source of revenue, upon which it was intended they should fall" (Smith, *An Inquiry* 2, p. 825).
19. S. Fleischacker, *On Adam Smith's Wealth of Nations* (Princeton: Princeton University Press, 2004), p. 145.

20. I. Hont and M. Ignatieff argue that Smith is best seen in light of a commitment to natural jurisprudence where he chooses "strict justice over civic virtue, passive liberty over active" in *Wealth and Virtue: The Shaping of Political Economy in the Scottish Enlightenment* (Cambridge, UK: Cambridge University Press, 1983), p. 44. It is precisely the assumptions of natural jurisprudence, then, that I call into question in regards to our view of the relationship between taxation and the democratic state.
21. Smith, *An Inquiry* 2, p. 825.
22. Smith, *An Inquiry* 2, p. 826.
23. Smith, *An Inquiry* 2, p. 825.
24. K. Marx, "Critique of the Gotha Program," in R. Tucker, (ed.), *The Marx-Engels Reader* 2nd ed. (New York: Norton and Co., 1978), p. 531.
25. Smith, *An Inquiry* 2, p. 825.
26. H. Groves, *Tax Philosophers: Two Hundred Years of Thought in Great Britain and the United States* (Madison, WI: University of Wisconsin Press, 1974).
27. Smith, *An Inquiry* 2, p. 842, and F. Shehab, *Progressive Taxation* (London: Oxford University Press, 1953), p. 34.
28. Smith, *An Inquiry* 2, p. 842.
29. Smith, *An Inquiry* 2, p. 826.
30. It is somewhat difficult to determine what amount would be necessary for the state versus what is desired, thus making this observation somewhat obtuse.
31. Smith, *An Inquiry* 2, p. 827.
32. Smith, *An Inquiry* 2, p. 826.
33. *Ibid.*
34. There seems to be no similar worry for relatively poor individuals.
35. Smith, *An Inquiry* 2, p. 826.
36. Smith, *An Inquiry* 2, p. 826.
37. Smith, *An Inquiry* 1, p. 364.
38. Groves *Tax Philosophers*, p. 17.
39. Smith, *An Inquiry* 1, p. 346.
40. *Ibid.*
41. Ricardo was also very important to this lineage.
42. "The last three of these four maxims require little or other explanation or illustration than is contained in the passage itself," (Mill, *Principles of Political Economy*, p. 803).
43. J. Bentham, *The Constitutional Code*; F. Rosen and J.H. Burns, (eds.), (New York: Oxford University Press, 1983).
44. J.S. Mill, *Principles of Political Economy*, Sir W. Ashley, (ed.), (Fairfield, NJ: Augustus M. Kelley, 1976), p. 805.
45. Mill, *Principles of Political Economy*, p. 804.
46. Mill, *Principles of Political Economy*, p. 90.
47. Mill, *Principles of Political Economy*, p. 199.
48. Mill, *Principles of Political Economy*, p. 200.
49. J.S. Mill, *Collected Works Volume 8: A System of Logic Ratiocinative and Inductive: Being a Connected View of the Principles of Evidence and the Methods of Scientific Investigation* (Toronto: University of Toronto Press, 1974), pp. 844–848.
50. Mill, *Principles of Political Economy*, pp. 199–201.
51. D. Miller, "Mill's 'Socialism,'" *Politics, Philosophy, & Economics* 2/2 (2003), pp. 213–238. Mill questioned the possibility of diversity under communism and notes that "it is yet ascertained whether the communistic scheme would be consistent with that multiform development of human nature." (Mill, *Principles of Political Economy*, p. 211). For this reason, an approach effecting a radical reordering of economic society would repress eccentricity and, in Mill's eyes "no society in which eccentricity is a matter of reproach can be a wholesome state" (p. 211). More to the point, Mill understood that gross inequalities exist, and was "as desirous as any one that means should be taken to diminish these inequalities" (p. 808). However, he worried that progressive taxes would do so "as to relieve the prodigal at the expense of the

- prudent" (p. 808). As such, "to tax the larger incomes at a higher percentage than the smaller is to lay a tax on industry and economy; to impose a penalty on people for having worked harder and saved more than their neighbors" (p. 808).
52. Groves, *Tax Philosophers*, p. 30.
 53. This trifling exception notwithstanding, sometimes it is difficult to determine the origins of this saving, since "In a rude and violent state of society, it continually happens that the person who has capital is not the very person who has saved it, but some one, who, being stronger, or belonging to a more powerful community, possessed himself of it by plunder" (Mill, *Principles of Political Economy*, p. 69). Mill's example of such plunder is slavery, whereby some are compelled to produce. In this logic, slaves actually save, but this saving appears in the material form of the capital of the master. With a "trifling exception," then, Mill supports saving because it supports capital, since while industry may sometimes be limited by capital, "every increase of capital gives, or is capable of giving, additional employment to industry; and this is without assignable limit" (Mill, *Principles of Political Economy*, p. 66). This, in turn, makes industry productive.
 54. Mill supported progressive rates only in the case of inheritance taxes (*Principles of Political Economy*, p. 809).
 55. Mill, *Principles of Political Economy*, p. 51.
 56. Mill, *Principles of Political Economy*, p. 52.
 57. Mill, *Principles of Political Economy*, p. 90.
 58. Mill, *Principles of Political Economy*, p. 401.
 59. Smith, *An Inquiry* 2, p. 888.
 60. Mill, *Principles of Political Economy*, pp. 814–815.
 61. Mill, *Principles of Political Economy*, p. 814.
 62. J.S. Mill, *Utilitarianism, On Liberty and Considerations on Representative Government* H.B. Acton, (ed.), (London: Everyman's Library, 1972), p. 61.
 63. Mill, *Principles of Political Economy*, p. 884.
 64. Mill, *Principles of Political Economy*, p. 844.
 65. Mill, *Principles of Political Economy*, p. 950.
 66. *Ibid.*
 67. J.G.A. Pocock, "The Ideal of Citizenship since Classical Times," in R. Beiner, (ed.), *Theorizing Citizenship* (Albany, NY: SUNY Press, 1995).