THE UNEASY CASE FOR DEGRESSIVE TAXATION: A CRITIQUE OF BLUM AND KALVEN

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

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

EDITOR'S NOTE: Murray N. Rothbard (1926-1995) was the S.J. Hall distinguished professor of economics at the University of Nevada, Las Vegas. This is an unpublished manuscript from the Rothbard papers, written in 1952 for the Volker Fund. In a letter to the Volker Fund's Herbert C. Cournuelle, on August 18, 1952, Rothbard gave his reasons for writing about the Blum and Kalven essay: "It is certainly an important one... However, it is decidedly an article of mixed quality, containing many errors and significant omissions. Because of this, I am at present engaged in writing a detailed critique of the article." The article is Walter J. Blum and Harry J. Kalven, Jr., "The Uneasy Case for Progressive Taxation," University of Chicago Law Review 19 (1952): 417-520.

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

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

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

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

Blum and Kalven admit that their proposed "degressive tax" (proportionate income tax above a minimum subsistence exemption) is in reality a form of progressive tax. Despite their attempts to distinguish between the two forms, and despite the lesser severity of this tax, the fact remains that Blum