

## **ALL GOVERNMENT IS EXCESSIVE: A REJOINDER TO DWIGHT LEE'S "IN DEFENSE OF EXCESSIVE GOVERNMENT"**

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Given Dwight Lee's stalwart free enterprise credentials, it is more than passingly curious that the title of his 1998 Presidential Address to the Southern Economic Association was "In Defense of Excessive Government."<sup>1</sup>

After all, Lee is Professor of Economics and holder of the Bernard B. and Eugenia A. Ramsey Chair of Private Enterprise Economics at the University of Georgia. In addition to holding a named chair in "Private Enterprise Economics," he is also the former president of the Association of Private Enterprise Educators, a group devoted to not only the study of markets, private enterprise, property rights, and capitalism, but one which

is largely, but not exclusively, made up of academic economists with strong free market views and strong skepticism of government actions (it started many years ago as an association of free enterprise chair holders but has expanded to include anyone with a strong free enterprise perspective).<sup>2</sup>

As well, Lee has been associated with another group that claims a market orientation, the Center for Study of Public Choice, both at George Mason University and at Virginia Polytechnic Institute & State

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<sup>1</sup>See Dwight R. Lee, "In Defense of Excessive Government," *Southern Economic Journal* 65, no. 4 (April 1999), pp. 675–90.

<sup>2</sup>Bruce Benson, current vice president of the Association of Private Enterprise Educators, in his letter of invitation to the 2002 APEE annual meeting.

University. Other like-minded organizations with which he is connected include the Mont Pelerin Society, the Center for the Study of American Business at Washington University, the Earhart Foundation, and the Olin Foundation. In his association with the Foundation for Economic Education, he writes a regular commentary on free enterprise economics, previously in *The Freeman*, and now for its *Ideas on Liberty*. To top it all off, he has been included on the free-enterprise-oriented Templeton Honor Roll for Education in a Free Society.

If there were any doubt that Lee has had a long and illustrious career in promoting and defending the institutions of economic freedom, a brief perusal of the titles of his publications in his three-dozen-page-long vitae will convince any reader otherwise. Nor is it controversial to claim that as well as being widely interpreted as an exponent of economic freedom, this author sees himself in precisely this light. In fact, Lee announces at the very outset of his article, “I don’t have much practice defending government,” and mentions

those with whom I have long identified, classical liberals working in the field of public choice who advocate if not a minimal government, certainly one that is limited far more than any existing democracy.<sup>3</sup>

All of this makes Lee’s title incomprehensible, in that it would appear to be a 180-degree shift from nearly all of his past publication record. Further, the title is not a misnomer; Lee actually defends not only government intervention into the economy, but even intervention to an admittedly “excessive” degree.

Before I launch into a critique of this article, I would like to make several introductory remarks. First, I admire the extremism of this article. If one is going to defend government, why be a moderate? No, go “whole hog” and defend the most extreme version of this philosophy.<sup>4</sup>

Second, as a critic of the claims of the Public Choice School to be a spokesman for economic freedom and capitalism,<sup>5</sup> I am delighted that

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<sup>3</sup>Lee, “In Defense of Excessive Government,” p. 675.

<sup>4</sup>I could hardly be expected to take any other position on the matter, as is shown by my book *Defending the Undefendable* (New York: Fox and Wilkes, 1991). Lee is consistent in this regard, in that he announces himself willing to “irritate almost everyone,” another sentiment with which I am in complete accord. See Lee, “In Defense of Excessive Government,” p. 675.

<sup>5</sup>See, e.g., Walter Block and Tom DiLorenzo, “Is Voluntary Government Possible? A Critique of Constitutional Economics,” *Journal of Institutional and*

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Lee announces himself as intending to “use arguments drawn from, and consistent with, the public choice perspective to make my case.”<sup>6</sup> Of all those who explicitly defend public choice, Lee, alone in my opinion, clearly appreciates its (coercive) socialistic and interventionistic core. In contrast, all other advocates of this school of thought mistakenly see it as on the side of the free enterprise angels.<sup>7</sup> In other words, if public choice underlies his essay, and it clearly does, then so much the worse for public choice.

Third, Lee writes “I certainly would not have written this article if it were going to be subjected to a rigorous review process.”<sup>8</sup> This gives me pause; I would not want to criticize an ill-considered, half-thought-out article, preferring to “hold my fire” for the best work of an intellectual opponent. On the other hand, this was Lee’s 1998 Presidential Address to the Southern Economic Association, and does appear in the *Southern Economic Journal* (albeit without benefit of refereeing). Either of these considerations alone, and, certainly, both of them together, suggest that the article is “fair game” for criticism. In addition, authors are responsible for all of their work, including op-ed pieces, chapters in books, and published speeches, none of which are refereed.

Fourth, Lee announces that the reason he accepts, even urges, retaining admittedly inefficient government programs is because we cannot rid ourselves of them without also being forced to make do without being able to “secur(e) advantages that only government action can provide.” He writes that “to get government to provide things we want, like the Washington Monument, we will have to put up with excessive

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*Theoretical Economics* 156, no. 4 (December 2000), pp. 567–82; Walter Block and Tom DiLorenzo, “The Calculus of Consent Revisited,” *Public Finance and Management*, forthcoming; and Tom DiLorenzo and Walter Block, “Constitutional Economics and the Calculus of Consent,” *Journal of Libertarian Studies* 15, no. 3 (Summer 2001). Also see Thomas J. DiLorenzo, “Competition and Political Entrepreneurship: Austrian Insights into Public Choice Theory,” *Review of Austrian Economics* 2 (1988), pp. 59–71; and Murray N. Rothbard, “Buchanan and Tullock’s *The Calculus of Consent*,” in *Applications and Criticism from the Austrian School*, vol. 2, *The Logic of Action* (Cheltenham, U.K.: Edward Elgar, 1997), pp. 269–74.

<sup>6</sup>Lee, “In Defense of Excessive Government,” p. 675.

<sup>7</sup>That Lee *welcomes* this (coercive) socialist core cannot properly be interpreted as a disparagement of this profound intellectual insight, although, to be sure, it calls into question his otherwise stellar pro-market credentials.

<sup>8</sup>Lee, “In Defense of Excessive Government, p. 675.

spending on other government activities that cost more than they are worth.”<sup>9</sup> In contrast, to foreshadow my rejoinder, I shall claim that there are no desirable goods or services that “only government action can provide,” and that, to the extent the public wishes to view things like the Washington Monument, the market is fully capable of providing them.<sup>10</sup>

Further, to the extent that it is true that “only government action can provide” certain things, this concerns mass murder<sup>11</sup> and only mass murder.<sup>12</sup> Every other government function (defense, courts, police, helping the poor, etc.) has been accomplished by private individuals.

Fifth, Lee is guilty of misusing several economic phrases (e.g., “rent seeking” and “collective action”), and correcting him on these matters would alone render worthwhile a response to his essay.

I shall now proceed with my critique of this very interesting essay, following Lee’s own outline.

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<sup>9</sup>Lee, “In Defense of Excessive Government,” pp. 675, 676.

<sup>10</sup>The Disney Corporation and the hotel entrepreneurs of Las Vegas have erected far more spectacular structures than this; the Empire State Building alone puts it into the shade.

<sup>11</sup>James Ostrowski, “Killers Kill the Killer,” *LewRockwell.com*, puts the number of civilians murdered by the U.S. government at 2,523,625. The greatest so-called private mass murderer in the U.S., Timothy McVeigh, killed fewer than 100 innocent people. However, I do not consider McVeigh a private killer. Rather, since he engaged in what is quintessentially a function of government, he should be seen in that light. A careful reading of Lysander Spooner, *No Treason* (1870; reprint, Larkspur, Colo.: Pine Tree Press, 1966), will convince the fair-minded reader that the two are indeed members of the same “industry.”

<sup>12</sup>Think soccer hoodlums armed with weapons of mass destruction. See on this Stephane Courtois, Nicols Werth, Jean-Louis Panne, Andrzej Paczkowski, Karel Bartosek, and Jean Louis Margolin, *The Black Book of Communism: Crimes, Terror, Repression*, trans. Jonathan Murphy and Mark Cramer (Cambridge, Mass.: Harvard University Press, 1999); R.J. Rummel, *Death by Government* (New Brunswick, N.J.: Transaction Publishers, 1994); R.J. Rummel, *Democide: Nazi Genocide and Mass Murder* (New Brunswick, N.J.: Transaction Publishers, 1992); and R.J. Rummel, *Statistics of Democide* (Charlottesville, Va.: Center for National Security Law, School of Law, University of Virginia, 1997). The “score” of millions of people killed is roughly the following: Mao’s China: 60; Stalin’s U.S.S.R.: 20; Hitler’s Germany: 10; Pol Pot’s Cambodia: 2. Thus, it can be seen that while the U.S. is a “player,” it is not at the top of the rogue’s gallery.

## COMPARED TO WHAT?

In this section, Lee claims that just because there are “inevitable market failures” does not mean that government ameliorative action is justified, because the proper comparison or yardstick for commerce is not perfection. He then goes on, paraphrasing James Buchanan, to make the identical point with regard to the latter:

[my] argument might be taken as a criticism of the naiveté of both the market-failure welfare economists and the market-works-politics-fails stance of many modern public choice new neo-classical economists. By comparison with idealized standards, both markets and politics fail.<sup>13</sup>

In other words, rather than seeking a “moral equivalence” between market and state, Lee finds an “economic equivalence.” Both market and state have been unduly attacked, by, in effect, extremists of either side.<sup>14</sup> Moderators of the ilk of Lee and Buchanan are needed to set the balance right by showing that *both* the critics of the market *and* the critics of the government are in error.

There are several problems with this analysis. Let us consider the concept of “market failure,” since Lee uses it as a stick with which to beat up on free enterprise. It cannot be denied that there is “market failure” in the sense that not every decision made by all businessmen will always be correct. There is, after all, such a thing as entrepreneurial error. If we are to include under the rubric of “businessmen” all economic actors, including employees, investors, savers, etc., then room for error expands even more. But this is not at all what is commonly meant by “market failure,” nor does it capture Lee’s understanding of it, which is fully compatible with common usage within the economics profession. This concept is not a synonym for mistakes made by human beings in their bartering and trucking activities. Instead, at least within the realm of professional economics, it signifies particular “failures,” such as monopoly, public goods, externalities, income inequality, discrimination, etc.

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<sup>13</sup>Lee, “In Defense of Excessive Government,” p. 676; cf. James Buchanan, “Market Failure and Political Failure,” *Cato Journal* 8, no. 1 (Summer 1988), p. 12.

<sup>14</sup>Not, presumably, of the “good” kind of extremists as indicative of Lee’s philosophical stance, but of the “bad” kind who fail to agree with this “economic equivalence” perspective.

My point, in rejoinder, is that there is no such thing as market failure in this sense.<sup>15</sup>

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<sup>15</sup>The idea of market failure has been thoroughly demolished in many places by many scholars. For a general overview, see Tyler Cowen, ed., *The Theory of Market Failure: A Critical Examination* (Fairfax, Va.: George Mason University Press, 1988).

On monopoly as market failure, see Dominick Armentano, *Antitrust and Monopoly: Anatomy of a Policy Failure* (New York: Wiley, 1982); Donald Armstrong, *Competition versus Monopoly: Combines Policy in Perspective* (Vancouver, B.C.: Fraser Institute, 1982); Walter Block, *Amending the Combines Investigation Act* (Vancouver, B.C.: Fraser Institute, 1982); Walter Block, “Austrian Monopoly Theory—A Critique,” *Journal of Libertarian Studies* 1, no. 4 (Fall 1977), pp. 271–79; Walter Block, “Total Repeal of Anti-Trust Legislation: A Critique of Bork, Brozen, and Posner,” *Review of Austrian Economics* 8, no. 1 (1994), pp. 35–70; William Barnett and Jerry Dauterive, “A Property Rights Approach to Natural Monopoly” (paper presented at the annual meeting of the Southern Economic Association, 1985); Thomas J. DiLorenzo, “The Myth of Natural Monopoly,” *Review of Austrian Economics* 9, no. 2 (1997), pp. 43–58; Jack High, “Bork’s Paradox: Static vs. Dynamic Efficiency in Antitrust Analysis,” *Contemporary Policy Issues* 3 (1984–1985), pp. 21–34; Fred McChesney, “Antitrust and Regulation: Chicago’s Contradictory Views,” *Cato Journal* 10 (1991); Murray N. Rothbard, *Man, Economy, and State* (Los Angeles: Nash, 1970); William F. Shugart, II, “Don’t Revise the Clayton Act, Scrap It!” *Cato Journal* 6 (1987); and Fred L. Smith, Jr., “Why Not Abolish Antitrust?” *Regulation* (January–February 1983).

On externalities, spillovers, and public goods, see Hans-Hermann Hoppe, “Fallacies of the Public Goods Theory and the Production of Security,” in *Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993); Hans-Hermann Hoppe, *The Private Production of Defense* (Auburn, Ala.: Ludwig von Mises Institute, 1998); Jeffrey Rogers Hummel, “National Goods vs. Public Goods: Defense, Disarmament, and Free Riders,” *Review of Austrian Economics* 4 (1990), pp. 88–122; Walter Block, “Public Goods and Externalities: The Case of Roads,” *Journal of Libertarian Studies* 7, no. 1 (Spring 1983), pp. 1–34; Walter Block, “The Justification of Taxation in the Public Finance Literature: A Critique of Atkinson and Stiglitz, Due, Musgrave and Shoup,” *Journal of Public Finance and Public Choice* 3 (Fall 1999), pp. 141–58; Walter Block, “Canadian Public Finance Texts Cannot Justify Government Taxation: A Critique of Auld & Miller; Musgrave, Musgrave, & Bird; McCready; and Wolf,” *Canadian Public Administration* 36, no. 1 (Fall 1993), pp. 225–62.

Other so-called “market failures,” such as inequality of wealth and racial and sexual discrimination, are hardly worth citing in this context.

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Second, even if there were such a valid concept, Lee's assertion can not be maintained. To show this, let us grant his claim that markets fail compared to some ideal situation that exists in the never-never land of neoclassical texts. Typically, this is the world of perfect competition. This makes it curious that Lee supportively cites Bork's extremely well-founded and insightful statement:

A determined attempt to remake the American economy into a replica of the textbook model of competition would have roughly the same effect on national wealth as several dozen strategically placed nuclear explosions.<sup>16</sup>

But if perfect competition is not the standard Lee uses to find free enterprise wanting, then to what *would* he contrast it to achieve this end?

In sharp contrast, one does not need any such ideal to call into question governmental actions. The state stands condemned in and of itself, once it is realized that the public sector is based upon coercion. Indeed, government is the institutionalization of "coercion," as Lee himself acknowledges.<sup>17</sup> But if this is so, it raises a *per se* difficulty with these institutional arrangements, one which simply does not arise in markets.

If Mr. A trades an apple for Mr. B's berries, then each is made better off in the *ex ante* sense of anticipations. That is, neither would have agreed to the trade had not A preferred berries to apples, and B preferred apples to berries. A's profit is the difference to him between his valuations of the higher-ranked berries and the lower-ranked apples. B's profit, likewise, is the divergence in value to him between the more-valued apples and the less-valued berries. In every voluntary transaction, we can infer that all participants are better off, or else they would not participate. So much for markets.<sup>18</sup>

In the public sector, things are very different. Here, we may suppose that a tax of \$100 is levied against Mr. C that will allow the government to engage in a service, call it mosquito abatement. Can we infer from this transaction that Mr. C values the service more than the

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<sup>16</sup>Lee, "In Defense of Excessive Government," p. 677; Robert H. Bork, *The Antitrust Paradox: A Policy at War with Itself* (New York: Basic Books, 1978), p. 92.

<sup>17</sup>Lee, "In Defense of Excessive Government," pp. 677, 678, and 683.

<sup>18</sup>Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 163, has characterized them as the embodiment of "capitalist acts between consenting adults."

costs? That he, for example, gains \$150 from the spraying of swamps, and thus earns a profit of \$50? In a word, no. This transaction is a coercive one, not a voluntary one,<sup>19</sup> so there need not be mutual gains.

Thus, to find fault with the free market, one has to create idealized models against which to compare the free market. We do not need to resort to any such concept as an “ideal government” to find fault with our own real government. To the contrary, governments stand condemned since they are intrinsically coercive, and for that reason alone are “economic failures.”

### THE “INVISIBLE HAND” BEHIND RENT-SEEKING WASTE

There is perhaps no greater misnomer in all of economics than “rent-seeking” as employed by the Public Choice school, since, by that term, they mean nothing less than theft: the seizure, by force or the threat of force, of other people’s property. Given that this is the case, and that Lee himself characterizes government behavior as “coercion,”<sup>20</sup> a far more descriptive phraseology for this behavior would be “booty seeking” or “theft seeking” or “piracy seeking” or “robbery seeking” or “larceny seeking.” As it stands, “rent seeking” is an unwarranted attack on the ancient and honorable profession of garnering land, housing, or property rent, or, as in profit seeking, an attempt to gain economic rent. Lee admits that “the term ‘rent seekers’ is commonly used as a pejorative.”<sup>21</sup> Why should such an innocent activity as seeking rent be used to depict something so highly problematic?

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<sup>19</sup>Some might argue that under democracy, the *society*, rather than the *individual*, has voluntarily acquiesced to this transaction. However, the institution of democracy is not without its critics. See Hans-Hermann Hoppe, “The Political Economy of Monarchy and Democracy and the Idea of a Natural Order,” in *Values and the Social Order*, ed. Gerard Radnitzky, vol. 3 (Aldershot: Avebury, 1997); Hans-Hermann Hoppe, “Time Preference, Government, and the Process of De-Civilization—From Monarchy to Democracy,” *Journal des Economistes et des Etudes Humaines* 4, no. 2 (1994), reprinted in John V. Denson, ed., *The Costs of War: America’s Pyrrhic Victories* (New Brunswick, N.J.: Transaction Publishers, 1997); and Hans-Hermann Hoppe, *Democracy, the God that Failed: The Economics and Politics of Monarchy, Democracy, and Natural Order* (New Brunswick, N.J.: Transaction Publishers, 2001).

<sup>20</sup>Lee, “In Defense of Excessive Government,” pp. 677, 678, and 683.

<sup>21</sup>Lee, “In Defense of Excessive Government,” p. 677.

### ***Private Interest Dominates the Political Process***

A more substantive difficulty with Lee's treatment is that in his attempt to "defend . . . rent seekers" he erroneously equates this activity with "self interest."<sup>22</sup> Now a "great insight" of the Public Choice School is that people do not sprout angel's wings when they enter government service; rather, they take their self-interest right along with them into the bureaucracy. But to identify self-interest and "booty seeking" is to commit a serious logical error. As Adam Smith has shown, self-interest in the private sphere leads, through the invisible hand, to good effects. It is quite a leap in logic, however, to posit a similar phenomenon under statism. There is a world of difference between theft and self-interest, despite the fact that among the criminal class, the latter leads to the former. Similarly, sexual obsession can provoke rape, but we can certainly distinguish between the two phenomena.

It is as a result of these musings that Lee brings himself to declare that "we should (not be) particularly offended by rent seekers."<sup>23</sup> While he attempts to mitigate this rather ill-considered statement, he succeeds only partially,<sup>24</sup> and contents himself with noting that markets are more congruent with consumer desires than are political systems. But the problem goes far deeper than that. If we are correct in identifying "rent seeking" with outright (albeit legalized) theft, then to say that we should not be offended by "rent seekers" is to say that we should not be offended by robbers, provided that they have obtained warrants for their actions from legislatures.<sup>25</sup>

### ***The Problem of Providing Public Goods***

Lee maintains that "market incentives leave . . . public goods . . . greatly underprovided, if provided at all." This is problematic in that this author goes out of his way to present us with a joke: "How's your wife? Compared to whom?" The point is that economists think naturally in terms of alternatives, and that "pointing out that something is flawed is not a meaningful criticism of it unless better alternatives are

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<sup>22</sup>Lee, "In Defense of Excessive Government," p. 678.

<sup>23</sup>Lee, "In Defense of Excessive Government," p. 678.

<sup>24</sup>Lee, "In Defense of Excessive Government," p. 678, note 3.

<sup>25</sup>The Nazi incarceration of Jews was perfectly legal under German law of the time. This hardly renders it inoffensive.

possible.”<sup>26</sup>

Yet, in the present context, Lee is doing precisely what he warned us against with his joke. He is pointing out that with markets, public good production is sub-optimal. In the spirit of his joke, we may reply, “So what?” Unless Lee can show that government, with all the flaws in it that he himself acknowledges, is an *improvement* over allegedly imperfect markets in this regard, his carping amounts to naught, by his own admission. But he does not even attempt to show this, let alone succeed in so doing.

Lee’s claim that markets will under-optimally provide public goods may sound all right to the economic ear, but this is only because sentiments of this sort have continuously been drummed into our ears as undergraduates, graduate students, and beyond. Actually, for a profession that prides itself on basing all claims on empirical support,<sup>27</sup> Lee’s claim, pivotal to his thesis, is embarrassingly short on statistical verification. Moreover, there is not a single solitary good or service characterized as a “public good” that has not been provided privately.<sup>28</sup> The common list of public goods provided privately includes defense (handled by private police forces and detective agencies),<sup>29</sup> courts and a judicial system (via such organizations as the American Arbitration Association),<sup>30</sup> roads and highways (provided by private firms, private

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<sup>26</sup>Lee, “In Defense of Excessive Government,” pp. 678, 676.

<sup>27</sup>The Austrian school of economics is an honorable exception to this rule.

<sup>28</sup>With the exception of murder on a mass scale, as discussed above.

<sup>29</sup>See Terry Anderson and P.J. Hill, “An American Experiment in Anarcho-Capitalism: The not so Wild, Wild West,” *Journal of Libertarian Studies* 3, no. 1 (1979), pp. 9–29; Hoppe, “The Private Production of Defense,” pp. 27–52; Murray N. Rothbard, *For A New Liberty* (New York: Macmillan, 1978); Edward Stringham, “Justice Without Government,” *Journal of Libertarian Studies* 14, no. 1 (Winter 1998–1999), pp. 53–77; and Patrick Tinsley, “Private Police: A Note,” *Journal of Libertarian Studies* 14, no. 1 (Winter 1998–1999), pp. 95–100.

<sup>30</sup>For the general case that law, justice, courts, etc., could be provided in the absence of government, see Randy E. Barnett, *The Structure of Liberty: Justice and the Rule of Law* (Oxford: Clarendon Press, 1998); Bruce L. Benson, “Enforcement of Private Property Rights in Primitive Societies: Law Without Government,” *Journal of Libertarian Studies* 9, no. 1 (Winter 1989), pp. 1–26; Lisa Bernstein, “Opting out of the Legal System: Extralegal Contractual Relationships in the Diamond Industry,” *Journal of Legal Studies* 21 (1992); Alfred G. Cuzán, “Do We Ever Really Get Out of Anarchy?” *Journal of Libertarian*

communities, and other entities),<sup>31</sup> lighthouses (provided by long-

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*Studies* 3, no. 2 (Summer, 1979); Anthony de Jasay, *Against Politics: On Government, Anarchy, and Order* (London: Routledge, 1997); David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism*, 2nd ed. (La Salle, Ill.: Open Court, 1989); Gillian K. Hadfield, “Privatizing Commercial Law,” *Regulation* 24, no. 1 (Spring 2001), pp. 40–45; Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism: Economics, Politics, and Ethics* (Boston: Kluwer, 1989); Hans-Hermann Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993); N. Stephan Kinsella, “Legislation and the Discovery of Law in a Free Society,” *Journal of Libertarian Studies* 11 (Summer 1995); Jonathan Macey and Maureen O’Hara, “Regulating Exchanges and Alternative Trading Systems: A Law and Economics Perspective,” *Journal of Legal Studies* 18 (1999); Murray N. Rothbard, “Society Without a State,” in *Anarchism: Nomos XIX*, ed. J.R. Pennock and J.W. Chapman (New York: New York University Press, 1978), pp. 191–207; Aeon J. Skoble, “The Anarchism Controversy,” in *Liberty for the 21st Century: Essays in Contemporary Libertarian Thought*, ed. Tibor Machan and Douglas Rasmussen (Lanham, Md.: Rowman and Littlefield, 1995), pp. 77–96; Larry J. Sechrest, “Rand, Anarchy, and Taxes,” *Journal of Ayn Rand Studies* 1, no. 1 (Fall 1999), pp. 87–105.

<sup>31</sup>David T. Beito, “From Privies to Boulevards: The Private Supply of Infrastructure in the United States during the Nineteenth Century,” in *Development by Consent: The Voluntary Supply of Public Goods and Services*, ed. Jerry Jenkins and David E. Sisk (San Francisco: Institute for Contemporary Studies, 1993), pp. 23–48; Walter Block, “Free Market Transportation: Denationalizing the Roads,” *Journal of Libertarian Studies* 3, no. 2 (Summer 1979), pp. 209–38; Walter Block, “Congestion and Road Pricing,” *Journal of Libertarian Studies* 4, no. 3 (Fall 1980), pp. 299–330; Walter Block, “Public Goods and Externalities: The Case of Roads,” *Journal of Libertarian Studies* 7, no. 1 (Spring 1983), pp. 1–34; Walter Block, “Theories of Highway Safety,” *Transportation Research Record* #912 (1983), pp. 7–10; Walter Block, “Road Socialism,” *International Journal of Value-Based Management* 9 (1996), pp. 195–207; Walter Block and Matthew Block, “Roads, Bridges, Sunlight, and Private Property Rights,” *Journal des Economistes et des Etudes Humaines* 7, nos. 2/3 (June–September 1996), pp. 351–62; Walter Block, “Roads, Bridges, Sunlight, and Private Property: Reply to Gordon Tullock,” *Journal des Economistes et des Etudes Humaines* 8, nos. 2/3 (June–September 1998), pp. 315–26; Fred Foldvary, *Public Goods and Private Communities: The Market Provision of Social Services* (Aldershot, England: Edward Elgar, 1994); Michelle Cadin and Walter Block, “Privatize the Public Highway System,” *The Freeman* 47, no. 2 (February 1997), pp. 96–97; John M. Cobin, “Market Provisions of Highways: Lessons from Costanera Norte,” *Planning and Markets* 2, no. 1 (September 1999); Dan Klein, John Majewski, and C. Baer, “Economy, Community, and the Law: The Turnpike Movement in New York, 1797–1845, *Journal of Eco-*

shoremen's associations or dock owners),<sup>32</sup> mosquito spraying, welfare (through private charities including churches and non-profit organizations),<sup>33</sup> and more. As for markets providing less than optimal amounts of these goods and services, Lee, as well as the entire economics profession, has yet to provide any criterion for optimality other than mere "blackboard economics" (we are all familiar with marginal, average, and total private and social utility and cost curves).

However, a basic postulate of neoclassical economics is that its tenets are made up of falsifiable propositions. Yet, no such set of clearly falsifiable propositions has been offered, or can be offered, not least because of the essential subjectivity of cost and utility.<sup>34</sup> Nor does Lee even attempt to meet this challenge. Not only does he not specify any empirical measure for optimal government involvement in the economy, he also eschews any attempt to define a criterion for determining

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*nomic History* (March 1993), pp. 106–122; Dan Klein and G.J. Fielding, "How to Franchise Highways," *Journal of Transport Economics and Policy* (May 1993), pp. 113–30; Bertrand Lemennicier, "La Privatisation des rues," *Journal Des Economistes et des Etudes Humaines* 7, no. 2/3 (June-September 1996), pp 363–76; and John Semmens, "Intraurban Road Privatization," *Transportation Research Record* 1107 (1987).

<sup>32</sup>The classic article on this topic is Ronald H. Coase, "The Lighthouse in Economics," *Journal of Law and Economics* 17 (1974), pp. 357–76. For an argument that Coase has not succeeded in showing that markets can provide lighthouse services, the opinion on this matter of most economists notwithstanding, see William Barnett, II and Walter Block, "Coase and Van Zandt on Lighthouses," (Loyola University New Orleans, photocopy).

<sup>33</sup>See Rothbard, *For a New Liberty*; Mark Hughes, review of *The Nonprofit Sector: A Research Handbook*, ed. Walter W. Powell, *The Philanthropist* 7, no. 4 (Summer 1988), pp. 61–65; and Mark Hughes, "Counterpoint: A Response to Bennet and DiLorenzo," *The Philanthropist* 9, no. 3 (Fall 1990), pp. 43–56.

<sup>34</sup>Nobel-prize-winning economist James Buchanan, in his Austrian persona, is fully aware of subjectivism. See, e.g., James M. Buchanan and G.F. Thirlby, *L.S.E. Essays on Cost* (New York: NYU Press, 1981); and James M. Buchanan, *Cost and Choice: An Inquiry into Economic Theory* (Chicago: Markham, 1969). See also Ludwig von Mises, *Human Action*, 3rd rev. ed. (Chicago: Regnery, 1966); Rothbard, *Man, Economy, and State*; and William Barnett, II, "Subjective Cost Revisited," *Review of Austrian Economics* 3 (1989), pp. 137–38. It is too bad that when Buchanan wears his Public Choice hat, he forgets all about his qualifications and scientific modesty in this regard. On this, see footnote 5, above.

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this measure. In this regard, he joins forces with that other advocate of free enterprise, John Kenneth Galbraith, who was forever complaining about niggardliness in the public sector, and opulence in the private.<sup>35</sup>

In behalf of the ballot box vote, Lee writes that “preferences are communicated candidly,” since there need be no fear of “being exploited by free riders.”<sup>36</sup> Both of these declarations are suspect.

As far as candidness is concerned, Lysander Spooner had the following to say:

[V]oting is not to be taken as proof of consent. . . . On the contrary, it is to be considered that, without his consent having even been asked, a man finds himself environed by a government that he cannot resist; a government that forces him to pay money, render service, and forego the exercise of many of his natural rights, under peril of weighty punishments. He sees, too, that other men practice this tyranny over him by the use of the ballot. He sees further, that, if he will but use the ballot himself, he has some chance of relieving himself from this tyranny of others, by substituting them to his own. In short, he finds himself, without his consent, so situated that, if he use the ballot he may become a master; if he does not use it, he must become a slave. And he has no other alternative than these two. In self-defense, he attempts the former.<sup>37</sup>

As concerns free riders, Lee has no way of demonstrating that any exist, nor, if this hurdle can somehow be overcome, that entrepreneurs cannot internalize any ensuing externalities. Instead, the author implicitly assumes that they exist and cannot be overcome in this manner. Yet, logically, this is not enough. If free riders do exist, then we are all free riders. For example, we all benefit from the existence of Mozart, but none of us have ever lifted a hand to help him. That is simply a part of civilization. To turn this into a market failure is highly problematic.

Lee writes the following: “without government action, we would

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<sup>35</sup>John Kenneth Galbraith, *The Affluent Society* (Boston: Houghton-Mifflin, 1958).

<sup>36</sup>Lee, “In Defense of Excessive Government,” p. 679. Yet, no sooner does he make this claim than he attempts to moderate it to a degree by his characterization of this view as “simplistic.” Further, his discussion of “expressive voting” constitutes another qualification. Nonetheless, Lee does not completely divorce himself from this viewpoint.

<sup>37</sup>Spooner, *No Treason*, p. 15.

find ourselves with less national defense, less crime prevention, and less environmental quality than we have.”<sup>38</sup> Absent statistical justification, such a claim seems very rash. Indeed, the truth would appear to be the very opposite. For example, with the advent of the movie “Pearl Harbor” and several critical reviews of it, even the meanest intelligence is finally becoming aware of the fact that it was FDR, running on a “peace” platform,<sup>39</sup> who incited the Japanese into waging war on the United States.<sup>40</sup> Likewise, it was the U.S. government, recklessly ignoring President George Washington’s insightful “Farewell Address” where he warned of “entangling alliances” and foreign adventurism, which got us into World War I, the Korean “police action,” Viet Nam, and altogether too many other invasions of foreign countries in recent days to even mention. This is “national defense?” A case can easily be made to the effect that it is the very opposite: *offense*.

Further, the state is, on net balance, a creator of crime, not a preventer of it, even if we do not count its own acts as criminal. To consider a single case, the prohibition of drugs calls into serious question the direction of causation between the public sector and crime.<sup>41</sup> Then, too, government categorizes so many victimless “crimes” as illegal,

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<sup>38</sup>Lee, “In Defense of Excessive Government,” p. 679.

<sup>39</sup>Old joke: How can you tell if a politician is lying? If he moves his lips. So much for Lee’s claim about “preferences [being] communicated candidly.” How can they be communicated candidly if politicians lie?

<sup>40</sup>See, e.g., Robert B. Stinnett, *Day of Deceit: The Truth about FDR and Pearl Harbor* (New York: Touchstone, 1999).

<sup>41</sup>See Block, *Defending the Undefendable*, pp. 39–49; Walter Block, “Drug Prohibition: A Legal and Economic Analysis,” *Journal of Business Ethics* 12 (1993), pp. 107–18; Walter Block, “Drug Prohibition, Individual Virtue, and Positive Economics,” *Review of Political Economy* 8, no. 4 (October 1996), pp. 433–36; David Boaz, ed., *The Crisis in Drug Prohibition* (Washington, D.C.: Cato Institute, 1990); Meaghan Cussen and Walter Block, “Drug Legalization: A Public Policy Analysis,” *American Journal of Economics and Sociology* 59, no. 3 (July 2000), pp. 525–36; Milton Friedman, “An Open Letter to Bill Bennett,” *Wall Street Journal* (September 7, 1989); Ronald Hamowy, ed., *Dealing with Drugs: The Consequences of Government Control* (San Francisco: The Pacific Institute, 1987); Rothbard, *For A New Liberty*; Thomas Szasz, *Ceremonial Chemistry: The Ritual Persecution of Drugs, Addicts and Pushers* (Holmes Beach, Fl.: Learning Publications, 1985); Thomas Szasz, *Our Right to Drugs: The Case for a Free Market* (New York: Praeger, 1992); and Mark Thornton, *The Economics of Prohibition* (Salt Lake City: University of Utah Press, 1991).

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each of which is responsible for yet more crime and “less crime prevention.” Under this rubric, we must count laws against gambling, prostitution, markets in body parts,<sup>42</sup> pornography, and the prohibition of alcohol during previous epochs.

What of environmental protection? Here, too, it is difficult to make the case that the government is the solution, not the problem, Lee to the contrary notwithstanding. The state contributes to environmental despoliation in many ways. It contributes to the “tragedy of the commons” through the sheer extent of its land holdings,<sup>43</sup> and by not allowing for the privatization of endangered species. It exacerbates air pollution by not interpreting such behavior as trespass against private property.<sup>44</sup> Its much-vaunted so-called market-based solutions, tradable emissions rights, are but variants of socialism, and, thus, vulnerable to the familiar arguments against central planning.<sup>45</sup> If Lee wishes to base

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<sup>42</sup>On the case for a free market in this field, see, e.g., Andy H. Barnett, T. Randolph Beard, and David L. Kaserman, “Scope, Learning, and Cross-Subsidy: Organ Transplants in a Multi-Division Hospital—An Extension,” *Southern Economic Journal* 62, no. 3 (January 1996), pp. 76–67; William Barnett, II, Michael Saliba, and Deborah Walker, “A Free Market in Kidneys: Efficient and Equitable,” *Independent Review* 5, no. 3 (Winter 2001); William Barnett, “The Market for Used Human Body Parts,” *The Free Market* 6, no. 2 (1988); Walter Block, Roy Whitehead, Clint Johnson, Mana Davidson, Alan White, and Stacy Chandler, “Human Organ Transplantation: Economic and Legal Issues,” *Quinnipiac College School of Law Health Journal* 3 (1999–2000), pp. 87–110; and Walter Block, “The Case for a Free Market in Body Parts,” in *Essays in the Economics of Liberty: The Free Market Reader*, ed. Lewellyn Rockwell (Auburn, Ala.: Ludwig von Mises Institute, 1988), pp. 266–72.

<sup>43</sup>See Walter Block, “Environmental Problems, Private Property Rights Solutions,” in *Economics and the Environment: A Reconciliation*, ed. Walter Block (Vancouver, B.C.: Fraser Institute, 1990), pp. 282–322.

<sup>44</sup>Murray N. Rothbard, “Law, Property Rights, and Air Pollution,” in *Economics and the Environment: A Reconciliation*, ed. Walter Block (Vancouver, B.C.: Fraser Institute, 1990); and Morton J. Horwitz, *The Transformation of American Law: 1780–1860* (Cambridge, Mass.: Harvard University Press, 1977).

<sup>45</sup>See Jerry W. Dauterive, William Bennett, and Everett White, “A Taxonomy of Government Intervention,” *Journal of the Southwestern Society of Economists* (1985). Also see Robert W. McGee and Walter Block, “Pollution Trading Permits as a Form of Market Socialism, and the Search for a Real Market Solution to Environmental Pollution,” *Fordham University Law and Environmental Journal* 6, no. 1 (Fall 1994), pp. 51–77.

his defense of government upon its provision of environmental amenities, he will have a tough row to hoe.

Even if it were the case that government made a positive net contribution to national defense, protection against crime, and promoting environmental quality, how can we account for his view that all this can be attained for “certainly less than people desire at the cost of providing them?”<sup>46</sup> Whence springs all the certainty? Without markets, one would have thought we were at sea without a rudder; there would no way of determining whether the citizens value government’s “contributions” more than its costs. Implicitly, Lee has a method for determining this, but he seems curiously unwilling to vouchsafe this method to the rest of us.

In his effort to be even handed and balanced, Lee concedes that “public provision of public goods is plagued with the same type of free-rider problems as private provision.”<sup>47</sup> He mentions in this regard “rational ignorance” and “expressive voting.” This is all well and good as far as it goes, but it does not go far enough. Another advantage enjoyed by the dollar vote vis-a-vis the ballot box vote is that in the former but not the latter system, there are entrepreneurs with an invisible hand incentive to internalize externalities. If and to the extent that the concept of spill-over effects is a coherent one,<sup>48</sup> markets can solve them.

In fact, it is no exaggeration to say that such “market failures” stem not from the market itself, but from failures to allow private property to extend far enough. For example, the so-called external economy offered by traffic lights to motorists or by street lights to passers-by is solely a function of the fact that roads, highways, and streets are owned and managed by the public sector in the first place. Were this not the case, that is, were these amenities allowed to be offered to customers by entrepreneurs, the entire difficulty would vanish in a trice. Traffic and street lights would be provided as they now are, by private gated communities, super markets, shopping malls, etc. Disneyland, for ex-

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<sup>46</sup>Lee, “In Defense of Excessive Government,” p. 679, emphasis added.

<sup>47</sup>Lee, “In Defense of Excessive Government,” p. 679.

<sup>48</sup>This is a perfectly rational concept in ordinary language, but not in technical economics. For more on this see Walter Block, “On Robert Nozick’s ‘On Austrian Methodology’,” *Inquiry* 23, no. 4 (Fall 1980), pp. 397–444; and Walter Block, “Austrian Theorizing: Recalling the Foundations,” *Quarterly Journal of Austrian Economics* 2, no. 4 (Winter 1999), pp. 21–39.

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ample, is not exactly bereft of this type of street furniture, and all of it comes entirely courtesy of the voluntary sector. There is not one modicum of coercion involved, as occurs via government roads.

The essence of Lee's thesis is that

because transmitting demands for public goods to government suppliers is so difficult, not only is much of this waste [excessive and inefficient government programs] understandable, it can also serve a useful purpose. . . . Attempts to reduce the inefficiency that comes inevitably with supplier control over providing public goods can easily result in greater inefficiency by reducing the amount of public goods provided.<sup>49</sup>

Difficulties abound, here. For one thing, in the absence of voluntary markets, we never have incontrovertible evidence that consumers wish to have public goods at their disposal. Consider a park in this regard. If it is private, and if the enterprise shows a profit, then we know that customers value this amenity more than the cost of bringing it to them. But in the case of the public park, we know no such thing, and cannot know it. In a democracy, all we know is that certain people were forced, either directly or indirectly on the basis of tyranny of the majority, to pay for this park. Some of them may even use it. But there is no preference that can be objectively revealed, demonstrating for one and all to see, that the people value the park more than its alternative costs.<sup>50</sup>

For another, markets are perfectly capable of providing any and all goods and services characterized by Lee as "public." Firms may not do so to the extent that Lee deems optimal, but, as he never offers any criterion on the basis of which this may be objectively judged, we are justified in ignoring him on this point, just as we do with Galbraith, and for similar reasons on similar issues.

For a third thing, there is no logical stopping point in this thesis. If we take it at face value (and how else can we take it), the theory can justify *any* level of government intervention.<sup>51</sup> Once allow the cloven

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<sup>49</sup>Lee, "In Defense of Excessive Government," p. 680.

<sup>50</sup>Murray N. Rothbard, "Toward a Reconstruction of Utility and Welfare Economics," in *Method, Money, and the Austrian School*, vol. 1 of *The Logic of Action* (Cheltenham, U.K.: Edward Elgar, 1997).

<sup>51</sup>See Dauterive, Bennett, and White, "A Taxonomy of Government Intervention."

hoof of admittedly excessive state depredations with no stipulated stopping point, where does it end? It can theoretically culminate with 100% totalitarian government, of the sort the bad old USSR only dreamed about.

### ***The Case of the Military-Industrial Complex***

In this section, Lee tries to show that even the vast waste attendant upon the Military-Industrial Complex (MIC) can be justified. After all, without this great inefficiency, which is accounted for by the “rent seeking” payment which goes to the bureaucrats responsible for it, we would not have an army at all, or far too small an army, and that would be intolerable. Lee writes: “The case for the MIC then is based on the very real possibility that it is better to have an adequate supply of national defense at excessive cost than an inadequate supply at least cost.”<sup>52</sup>

This sounds as if he makes these things up as he goes along. How does Lee know this is so? How can he defend against the claim that on the contrary, it is better to have a (slightly) inadequate supply of national defense at (moderate) cost than a (fully) adequate supply at (gargantuan excessive) cost? What ever happened to marginal analysis? Surely, Lee would agree that if we devoted 100% of the GDP to defense, and none to food, and we all died as a result, that this would be inferior to a situation where we had an army slightly too small for our needs, but plenty of food. But this directly contradicts his statement.

Another problem is that only in the market can such marginal costs and benefits be compared with one another. Under ballot box voting, with no prices emanating from the process, it is impossible to make such comparisons. This is precisely the problem of central planning, which underlies the Austrian case against all such institutions.<sup>53</sup> Lee

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<sup>52</sup>Lee, “In Defense of Excessive Government,” p. 681.

<sup>53</sup>See on this Dominick T. Armentano, “Resource Allocation Problems Under Socialism,” in *Theory of Economic Systems*, ed. William P. Snavely (New York: Charles E. Merrill, 1969); Walter Block, “Socialist Psychology: Values and Motivations,” *Cultural Dynamics* 5, no. 3 (1992), pp. 260–86; Peter J. Boettke, “The Austrian Critique and the Demise of Socialism: The Soviet Case,” in *Austrian Economics: Perspectives on the Past and Prospects for the Future*, vol. 17, ed. Richard M. Ebeling (Hillsdale, Mich.: Hillsdale College Press, 1991), pp. 181–232; Günther K. Chaloupek, “The Austrian Debate on Economic Calculation in a Socialist Economy,” *History of Political Economy*

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doesn't know, and cannot know, that the market is out of balance in this regard. He must ever be blind to the issue of whether or not the government allocates resources in the manner he describes.<sup>54</sup>

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22, no. 4 (1990), pp. 659–75; David A. Conway, *A Farewell to Marx: An Outline and Appraisal of His Theories* (Middlesex, England: Penguin Books, 1987); Raimondo Cubeddu, *The Philosophy of the Austrian School* (New York: Routledge, 1993), pp. 109–58; James Dorn, "Markets True and False in Yugoslavia," *Journal of Libertarian Studies* 2, no. 3 (Fall 1978), pp. 243–68; Richard M. Ebeling, "Economic Calculation Under Socialism: Ludwig von Mises and His Predecessors," in *The Meaning of Ludwig von Mises*, ed. Jeffrey Herbener (Norwell, Mass.: Kluwer Academic Press, 1993), pp. 56–101; Nicolai Juul Foss, "Information and the Market Economy: A Note on a Common Marxist Fallacy," *Review of Austrian Economics* 8, no. 2 (1995), pp. 127–36; David Gordon, *Resurrecting Marx: The Analytical Marxists on Freedom, Exploitation, and Justice* (New Brunswick, N.J.: Transaction Publishers, 1990); Friedrich A. Hayek, "The New Confusion About Planning," *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (Chicago: University of Chicago Press, 1978), pp. 232–46; Robert Heilbroner, "Analysis and Vision in the History of Monetary Economic Thought," *Journal of Economic Literature* 28 (September 1990), pp. 1097–1114; Jeffrey M. Herbener, "Calculation and the Question of Mathematics," *Review of Austrian Economics* 9, no. 1 (1996), pp. 151–62; Trygve J.B. Hoff, *Economic Calculation in a Socialist Society* (Indianapolis, Ind.: Liberty Press, 1981); Hans-Hermann Hoppe, "Socialism: A Property or Knowledge Problem?" *Review of Austrian Economics* 9, no. 1 (1996), pp. 147–54; Steven Horwitz, "Money, Money Prices, and the Socialist Calculation Debates," *Advances in Austrian Economics* 3 (1996), pp. 59–77; Willem Keizer, "Schumpeter's Walrasian Stand in the Socialist Calculation Debate," in *Austrian Economics in Debate*, ed. Willem Keizer, Bert Riben, and Rudy Van Zijp (London: Routledge, 1997); and Israel M. Kirzner, "The Economic Calculation Debate: Lessons for Austrians," *Review of Austrian Economics* 2 (1988), pp. 1–18.

<sup>54</sup>For more on the Austrian arguments related to this topic, see Peter G. Klein, "Economic Calculation and the Limits of Organization," *Review of Austrian Economics* 9, no. 2 (1996), pp. 3–28; Don Lavoie, "A Critique of the Standard Account of the Socialist Calculation Debate," *Journal of Libertarian Studies* 5, no. 1 (Winter 1981), pp. 7–22, 41–87, and 89–97; Peter Lewin, "The Firm, Money, and Economic Calculation," *American Journal of Economics and Sociology* 57, no. 4 (October 1998); Yuri N. Maltsev, *Requiem for Marx* (Auburn, Ala.: Ludwig von Mises Institute, 1993); Ludwig von Mises, *Socialism* (Indianapolis, Ind.: Liberty Press /Liberty Classics, 1981); Peter Murrell, "Did the Theory of Market Socialism Answer the Challenge of Ludwig von Mises? A Reinterpretation of the Socialist Controversy," *History of Political Economy* 15, no. 1 (Spring 1983), pp. 92–105; Gerald P. O'Driscoll, *Economics as a*

Lee delivers himself of this opinion: “Each [representative] would . . . know that his or her constituents could benefit from . . . national defense.”<sup>55</sup> Yet, for all we know as disinterested scientists, the entire polity may be composed of pacifists who revile the idea of protecting themselves. People may *say* they wish to be defended, but they can be lying in a way they cannot be when they plunk down a dollar on the barrelhead and take away some apples. What would it *mean* for such a person to deny that he ranks the apples higher than the dollar he just voluntarily paid for them? People may *vote* for an army in a referendum, or in favor of politicians who promise to provide defense, but, as even Lee has conceded in his analysis of the weaknesses of the public sector, this does not definitively establish any such preference.

Lee continues with this problematic claim: “Residents of South

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*Coordination Problem* (Kansas City: Sheed Andrews and McMeel, 1977), pp. 1–15; John O’Neill, “Who Won the Socialist Calculation Debate?” *History of Political Thought* 17, no. 3 (Autumn 1996), pp. 431–42; Joseph Persky, “Retrospectives: Lange and von Mises, Large-Scale Enterprises, and the Economic Case for Socialism,” *Journal of Economic Perspectives* 5, no. 4 (Autumn 1991), pp. 229–36; George Reisman, *Capitalism: A Treatise on Economics* (Ottawa, Ill.: Jameson Books, 1996), pp. 135–39, 267–82; Morgan O. Reynolds, “The Impossibility of Socialist Economy,” *Quarterly Journal of Austrian Economics* 1, no. 2 (Summer 1998), pp. 29–43; Murray N. Rothbard, “The End of Socialism and the Calculation Debate Revisited,” *Review of Austrian Economics* 5, no. 2 (1991), pp. 51–70; Joseph T. Salerno, “Ludwig von Mises as a Social Rationalist,” *Review of Austrian Economics* 4 (1990), pp. 26–54; Joseph T. Salerno, “Postscript: Why a Socialist Economy is ‘Impossible’,” in *Economic Calculation in the Socialist Commonwealth*, by Ludwig von Mises (Auburn, Ala.: Ludwig von Mises Institute, 1990), pp. 51–71; Helen E. Schultz, ed., *Economic Calculation Under Inflation* (Indianapolis, Ind.: LibertyPress, 1976); David Ramsey Steele, *From Marx to Mises: Post-Capitalist Society and the Challenge of Economic Calculation* (La Salle, Ill.: Open Court, 1992); David Ramsey Steele, “Posing the Problem: The Impossibility of Economic Calculation Under Socialism,” *Journal of Libertarian Studies* 5, no. 1 (Winter 1981), pp. 99–111; Reinhard Stiebler, “A Pre-History of Misesian Calculation: The Contribution of Adolphe Thiers,” *Quarterly Journal of Austrian Economics* 2, no. 4 (Winter 1999), pp. 41–47; Elizabeth Tamedly, *Socialism and the International Economic Order* (Caldwell, Idaho: Caxton Printers, 1969); Karen I. Vaughn, “Economic Calculation Under Socialism: the Austrian Contribution,” *Economic Inquiry* 18, no. 20 (June 1980), pp. 535–54; Leland B. Yeager, “Mises and Hayek and Calculation and Knowledge,” *Review of Austrian Economics* 7, no. 2 (1994), pp. 93–110.

<sup>55</sup>Lee, “In Defense of Excessive Government,” p. 680.

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Carolina receive as much protection from a submarine patrolling the oceans as do residents of California no matter whose taxes pay for it.<sup>56</sup> It is plausible that if the submarines were patrolling the eastern Pacific, the Californians would feel safer, and the South Carolinians neglected, and if the subs were in the western Atlantic, then the very opposite would be the case.<sup>57</sup> The point is that the country cannot necessarily be treated as one single unit. Even if it were not so vast, still, police or army manpower allocated to one area presumably has a higher marginal product there than somewhere else.

Consider Jude Wanniski's argument concerning the military-industrial complex:

President Bush now is running around Europe trying to persuade our NATO allies and the Russians that the ABM Treaty is obsolete, because the Cold War is over. But why then abrogate that treaty and spend a trillion dollars on more exotic weapons? For the first time in the history of the world, we are at the tippy-top of the world political economy. There is not a single nation that shows the slightest interest in challenging that hegemony. Instead of debating new weapons systems, we should start from the other end of the spectrum and ask why we need a Defense Department at all. We should "sunset" the Pentagon. In other words, start with the assumption that we do not need ANY Pentagon, and ask that the Military-Industrial Complex tell us why they need to soak our taxpayers for astronomical sums of money when we have no visible adversaries.

Why do we need an Army and an Air Force and Marines and a Navy, for goodness sakes? If we dissolved the whole shootin' match, the other nations of the world that now are forced to spend precious resources to protect themselves from threats from Uncle Sam would be able to follow our example and downsize from military empires to simple police forces. Doesn't that make sense? When Defense Secretary Don Rumsfeld took office a few months back, he undertook a reappraisal of Pentagon needs in this new era, but he did it in such secrecy that Republicans in Congress complained and your predecessor as Majority Leader, Trent Lott, had to call him on the carpet to get him to open up. Rumsfeld's approach was from the top down,

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<sup>56</sup>Lee, "In Defense of Excessive Government," p. 680.

<sup>57</sup>I assume away for the sake of argument the possibility that the citizens in either state might see the sub's presence as a provocation, and thus a greater danger to themselves.

guaranteed to add to the Pentagon's demands for resources when we already outspend the rest of the world *combined* on "national defense."<sup>58</sup>

### ***The Case of the Environmental-Industrial Complex***

Let us stipulate, if only for the sake of argument, and contrary to the criticisms mentioned above, that government is on net balance a force for environmental protection, not the very opposite. Even so, Lee's analysis is still marred by his inability to discern an "optimal" point for governmental interference with the economy. His only answer to the question of "How much role for the public sector" would appear to be "More."

Lee writes:

But, as with the MIC, we are dealing with a public good, and one can defend the waste in environmental policy as providing the rents necessary to mobilize interest groups to take *more* political action on behalf of environmental protection than would be taken otherwise.

And again: "the MIC and the EIC may serve a useful function by *exaggerating* the threats to be protected against."<sup>59</sup> If "more" is the only answer, and Lee is instigating the EIC to exaggerate dangers so as to call forth yet even "more" government intervention, there really is no stopping place short of "all." This is a strange way to defend markets, one of Lee's ostensible goals.

### ***The Case of Crime Control***

Lee dismisses the role of private security guards in quelling crime, even though he admits there are more of them than public police officers, on the ground that "the former create primarily private goods."<sup>60</sup> This is difficult to understand. One would have thought, instead, that "a cop is a cop" and "security is security." If it looks like a cop, dresses like a cop, and acts like a cop, well, then, maybe it *is* a cop.

But no. It would appear, at least for Lee, that the financing of a service determines whether or not it is a private or public good. However, this is erroneous. According to his own neoclassical theory,

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<sup>58</sup>Jude Wanniski, "Sunset the Pentagon," *polyconomics.com*.

<sup>59</sup>Lee, "In Defense of Excessive Government," p. 681, emphasis added.

<sup>60</sup>Lee, "In Defense of Excessive Government," p. 682.

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whether a good is private or public depends solely upon its excludability (whether one consumer can exclude another) and rivalrousness (whether one consumer should exclude another), not at all upon how it is financed.

Consider chart 1.

	Should Exclude	Should Not Exclude
Can Exclude	A (shoes)	B (television signal)
Can Not Exclude	C (street)	D (defense)

The columns (Should Exclude and Should Not Exclude) concern whether a good is rivalrous. The rows (Can Exclude and Can Not Exclude) consider whether a good is excludable. This two-by-two matrix gives rise to four possibilities, labeled as boxes A, B, C, and D. A is a pure private good, such as shoes or butter, since these goods are rivals in that if I use them, you are precluded from their utilization, unless you pay for them. Thus, there is reason to preclude you from their enjoyment, otherwise I cannot fully retain them, given that only one of us can do so. As well, excluding non-payers can easily be done, making this category the only one of the four not characterized as a “failure.”<sup>61</sup>

D is the pure public good, since, if I enjoy it, I am not able to exclude you from it, nor is it rivalrous, in that my use of it does not at all detract from yours. The usual examples given of this category are national defense and the lighthouse.<sup>62</sup> According to proponents of this

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<sup>61</sup>To be fair to mainstream economists, this category contains most goods and services in an economy. They advocate coercive socialism for the relatively few remaining members of the other three categories, at most.

<sup>62</sup>The lighthouse has somewhat and very gradually fallen out of favor as an example of a pure public good since the publication of Coase, “The Lighthouse in Economics.” Note that Lee nowhere mentions this case, but he does prominently use crime, the environment, and national defense. Why is it that although the lighthouse can no longer be used for this purpose in polite economic circles, the same fate has not (yet) befallen these three cases? I speculate that this phenomenon is due solely to the fact that it was Coase, a widely respected mainstream economist, who obliterated the public goods aspect of the lighthouse. The other cases have been demolished by Rothbard and others, but to no avail so far.

Here is a contrary-to-fact conditional to consider: had it been Rothbard and other libertarians who had done for lighthouses what Coase is widely seen as having done, and had it been Coase who had shown that defense, crime

doctrine, you should not be excluded from this benefit even though you do not pay for it, nor can you be precluded from enjoying it without payment; thus, it cannot be provided by a private firm on a profit-making basis.

An example of B is a television broadcast: this service is not rivalrous, in that one person's enjoyment of a program does not reduce that of another, but non-payers can be excluded from viewing it, given the advent of jamming devices which render feasible pay for view. However, since the marginal cost of adding one more viewer is zero, it would be inefficient to charge anyone for this benefit. Hence, profit-earning businesses cannot come into being, and the government must somehow engage itself in provision.

An illustration of C is the crowded street. Here, it is difficult or impossible to exclude passersby, but each of them impedes the free flow of all the others, so the good is rivalrous. Government must provide sidewalks, in this view, since people will free ride (or, rather, free "walk.")

It is this concept that is at the core of Lee's analytic framework. Without it, his entire range of proposals falls to the ground. Yet, it can easily be shown that this staple of mainstream economics is a tissue of fallacies. Coase is reputed to have already eliminated the lighthouse as member of category D by supposedly showing that boat owners did have incentive to pay off those who marked off dangerous rocks. The risk was that they should ever be turned off in an hour of need; this made it well worth-while to pay for this valuable service. Similarly, defense and crime prevention are not rivalrous; if a police station or a submarine is in one place, it is not so easy for it to cover another. Nor are they non-excludable: people who pay might be given signs saying that they are under the protection of the security firm, while those who do not pay do not receive such signs. In such a state, the latter would be natural targets for criminals, whether foreign or domestic.

At the other end of the spectrum, it is by no means clear that A is not a null set. If you purchase shoes and butter, for example, it might well be claimed that I am a beneficiary. To the extent that you are now healthier and more able to work, you will be less of a financial drain on me, and more able to enter into a division of labor with me. So, you

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stopping, and environmental protection were not public goods, Lee and others of his ilk would now be using the lighthouse to illustrate the idea of public goods, and would be eschewing these other examples for that purpose.

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cannot exclude me from enjoying your use of your own purchases, even though I do not pay for them.<sup>63</sup>

### ***Some Criticisms***

Lee takes time to consider three possible objections to or criticisms of his thesis: people voluntarily contribute to public goods production, people privately produce public goods, and the bad aspects of rent-seeking should be eliminated while the good aspects kept.

#### **People voluntarily contribute**

The first criticism against his thesis considered by Lee is that “people do contribute voluntarily to the provision of public goods.” And his refutation of this objection? “[M]ost economists would agree that such voluntary action alone would leave us with woefully inadequate quantities of public goods such as national defense, environmental quality and crime control.”<sup>64</sup>

There are difficulties here. First, there is no such thing as a “public good”; this is mere statist apologetics. As we have seen above, not even category A can be precluded from such characterization, and the members of the other three categories can all be so considered. Rivalrousness has a strong subjective element, and just because the state cannot exclude non-payers from service does not mean that more efficient entrepreneurs cannot.

Second, on the assumption that this is a coherent concept, there will be an underallocation of resources to these goods under the pure market, but also an overallocation under government control, given bureaucratic “rent seeking,” and Lee gives no reason to suppose that the latter is preferable to the former.

Third, it is particularly unsatisfactory to “argue” in favor of a proposition that “most economists would agree” with it. This constitutes the informal fallacy of *argumentum ad populem*.<sup>65</sup>

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<sup>63</sup>For a critique of the mainstream economic view on externalities and public goods see Jeffrey Rogers Hummel, “National Goods Versus Public Goods: Defense, Disarmament, and Free Riders,” *Review of Austrian Economics* 4 (1990), pp. 88–122; and Andrew P. Morriss, “Miners, Vigilantes, and Cattlemen: Overcoming Free Rider Problems in the Private Provision of Law,” *Land and Water Law Review* 33, no. 2 (1998), pp. 581–696.

<sup>64</sup>Lee, “In Defense of Excessive Government,” p. 682.

<sup>65</sup>For examples of the case against the Austrian school of economics based on the argument from authority, see David N. Laband and Robert D. Tollison,

Fourth, it is simply not true that public goods can only be provided by people “sacrificing private concerns”<sup>66</sup> in violation of Adam Smith’s notion of the invisible hand. This overlooks the institution of internalizing externalities for fun and profit.

Fifth, to show that there is a core element of subjectivism inherent in the concept, Lee maintains that “family farming, medical care . . . [and] education are not public goods.”<sup>67</sup> But “most economists,” to resort to his own style of arguing for the nonce, would certainly disagree with this assessment. Indeed, education is one of the most highly utilized examples of a public good in the literature.

### **Private individuals create private, not public, goods**

Lee’s second criticism of the argument that private individuals can provide public goods is that to the extent they do, they are no longer private. He writes:

Any arrangement that succeeds in providing a public good to many people, where excludability is a concern, requires some means of making collective decisions and then enforcing those decisions on those who either disagree with them or attempt to free rider [sic]. In other words, such a “private” arrangement for providing public goods takes on characteristics of governments.<sup>68</sup>

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“On Secondhandism and Scientific Appraisal,” *Quarterly Journal of Austrian Economics* 3, no. 1 (Spring 2000), pp. 43–48; Sherwin Rosen, “Austrian and Neoclassical Economics: Any Gains from Trade?” *Journal of Economic Perspectives* 11, no. 4 (Fall 1997), pp. 139–52; and Richard Vedder and Lowell Gallaway, “The Austrian Market Share in the Marketplace for Ideas, 1871–2025,” *Quarterly Journal of Austrian Economics* 3, no. 1 (Spring 2000), pp. 33–42. For rejoinders, see William L. Anderson, “Austrian Economics and the ‘Market Test’: A Comment on Laband and Tollison,” *Quarterly Journal of Austrian Economics* 3, no. 3 (Fall 2000), pp. 63–73; Walter Block, “Austrian Journals: A Critique of Rosen, Yeager, Laband and Tollison, and Vedder and Gallaway,” *Quarterly Journal of Austrian Economics* 3, no. 2 (Summer 2000), pp. 45–61; Leland Yeager, “Austrian Economics, Neoclassicism, and the Market Test,” *Journal of Economic Perspectives* 11, no. 4 (Fall 1997), pp. 153–63; and Leland Yeager, “The Tactics of Secondhandism,” *Quarterly Journal of Austrian Economics* 3, no. 3 (Fall 2000), pp. 51–61.

<sup>66</sup>Lee, “In Defense of Excessive Government,” p. 682.

<sup>67</sup>Lee, “In Defense of Excessive Government,” p. 683.

<sup>68</sup>Lee, “In Defense of Excessive Government,” p. 683. On this point, Lee cites Randall Holcombe, *The Economic Foundations of Government* (New York:

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Here, Lee is laboring under the belief that “collective decisions” equal “coercive decisions.” Like virtually all other members of the Public Choice School, he fails to distinguish between acting collectively and acting coercively. But there is all the world of difference between a municipal pool and a private club which offers its members the use of the common swimming facilities. Both are “collective” activities, but the former is coercive, while the latter is voluntary. In the private club, if you don’t pay, you cannot enjoy the amenity, which is the private property of all of those who have paid. As for the town recreational center, you are *forced* to subsidize it, through taxes. You may move away, only to the next town, but still, you are doing so at the point of a gun.

Contrary to Lee, there is no “continuum between private organizations, from which exit is easy, and governments, from which exit is difficult.”<sup>69</sup> Either you are a victim of coercion, or you are not. If the former, it is necessarily a statist act.<sup>70</sup> To be sure, there is a continuum between coercion and non-coercion, between threats and non-threats. For example, just how far my fist must be from your nose before I am deemed to have committed an assault upon you is a matter of degree. But once that issue is settled, there is no further continuum of any relevance. Government financing of the swimming pool is coercive; the private counterpart is not.

There is an old joke that asks: “Do you know the difference between a bathroom and a living room?” If you reply in the negative, the punch line is, “Well, then, don’t come to my house.” In like manner we can say that if you don’t know the difference between voluntary and coercive acts, then you might want to reconsider whether you really want to do political economics, since this is the most basic distinction

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New York University Press, 1994); and Donald J. Boudreaux and Randall G. Holcombe, “Government by Contract,” *Public Finance Quarterly* 17, no. 3 (June 1989), pp. 264–80. For a reply to this line of reasoning, see Walter Block, “National Defense and the Theory of Externalities, Public Goods, and Clubs” (Loyola University of New Orleans, photocopy).

<sup>69</sup>Lee, “In Defense of Excessive Government,” p. 683.

<sup>70</sup>This must be qualified somewhat. A government is correctly defined as an institution with a legal monopoly over initiatory coercion in a given geographical area. Strictly speaking, then, a “free enterprise” or private gunman is not a government, since he has no such legal monopoly. Nonetheless, he is engaged in a statist type of act, given that the quintessential element of the government is the initiation of force or the threat thereof, and he resembles them in that.

in that entire field of endeavor. Boudreax, Holcombe, and now Lee indicate that they are either unable or unwilling to make this most fundamental distinction.

This reply of Lee's sets up a catch-22 situation for his opponent. Either no individual person can (fully) supply a "public good," or, if he can, then he is really acting governmentally. Heads Lee wins, tails his opponent loses. But this cannot be allowed to stand. Lee cannot be allowed to win the debate with this trick of linguistic legerdemain. Very much to the contrary, there is no reason why a firm cannot supply a "public good." And if it does, there is no valid argument that automatically converts this into a governmental act. Methodologically, neoclassical economists live or die based on falsifiability. One must be able to mention a state of the world in which one's thesis can be untrue, at least in principle. In this case, Lee cannot do so. Hence, his thesis contradicts his own methodological principles.<sup>71</sup>

### **Keeping the good while eliminating the bad**

The third objection that Lee considers is that in carrying out so-called invisible hand "rent-seeking,"<sup>72</sup> his argument "applauds the productive consequences of special-interest rent seeking while minimizing the counterproductive consequences." Here is his very charming response:

But this criticism assumes we can get rid of the harmful rent seeking and keep that which is beneficial. That sounds good to me. I want to go on record right now as being in favor of getting rid of the bad and keeping the good. But there is a small problem with this noble sentiment. How do we carry it out?<sup>73</sup>

The answer seems perfectly clear: privatize, and allow the invisible

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<sup>71</sup>On this, see Hans-Hermann Hoppe, *Praxeology and Economic Science* (Auburn, Ala.: Ludwig von Mises Institute, 1988); Murray N. Rothbard, "Praxeology, Value Judgments, and Public Policy," in *The Foundations of Modern Austrian Economics*, ed. Edwin G. Nolan (Kansas City: Sheed and Ward, 1976); and George A. Selgin, "Praxeology and Understanding: An Analysis of the Controversy in Austrian Economics," *Review of Austrian Economics* 2 (1988), pp. 19–58.

<sup>72</sup>Lee, "In Defense of Excessive Government," p. 684. This phrase is a strong candidate for internal contradiction of the year honors.

<sup>73</sup>Lee, "In Defense of Excessive Government," p. 683.

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hand of the market to provide all goods and services that people can demonstrate they prefer, when compared to the costs necessary to produce them.

Lee goes on to deny he is “suggesting here that we can never get rid of bad government programs” and mentions the Civil Aeronautics Board, the Interstate Commerce Commission, and the Selective Service System as cases where we have done so successfully.<sup>74</sup> However, in welcoming airline, the draft, and other such deregulations, Lee is undermining his very own position. Had he remained true to it, he would have objected to these occurrences on the ground that these accretions to economic freedom would have put at undue risk all the wonderful things that government does for us, public-goods wise. What benefit to us is it to have slightly more economic freedom in the airline industry, etc., he would have said, if this reduces the “rent-seeking” that bureaucrats can garner; for if it does, then these people will employ the “Washington Monument” tactic and refuse to provide us with national defense, crime fighting, light houses, etc. It is surely penny wise and pound foolish to advocate *any* deregulation, based on this perspective.

But perhaps I speak too quickly. Perhaps there is *some* level of economic freedom, short of that which prevails in such capitalist bastions as Cuba and North Korea, which is both optimal and sustainable. The only problem with this surmise is that our guide in these matters, Prof. Lee, vouchsafes us no criterion on the basis of which we can make any such judgment. All he says on the matter, in effect, is that we must appreciate government excess, because it is only in this way that we can attain those elements of the state without which we as a society could not survive. But we are left hanging in the air, so to speak, as far as a roadmap that indicates just *how much* excessive government we must endure to retain for ourselves the “good bits.” All we are told is that more government is better. It would appear that his motto would be “that government which governs most governs best,” or “that government is best which governs most.”

### THE MARGINAL VERSUS THE TOTAL

Lee starts off this section reiterating his argument from authority:

I believe *most people*, public choice economists included, will accept that governments, at least those constrained by

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<sup>74</sup>Lee, “In Defense of Excessive Government,” p. 684.

constitutional democracy, as imperfect as those constraints are, create positive net value in total. The citizens in the industrial democracies are better off with their existing levels of government than they would be without government.<sup>75</sup>

For all I know, this might even be true. But this is not a bar room brawl; rather, it is supposed to be an exercise in scholarship. In such contexts, mere assertions, even backed up by majority opinion amongst economists, will not suffice. It would be nice to know the *evidence* upon which Lee bases his claim, but such evidence is not forthcoming. It would be nice to know, at least in principle, how he recommends that we empirically or otherwise *test* this declaration, but that, too, is not provided. So much for the self-styled reliance upon data on the part of mainstream economists.

However, basing his argument on marginal, not total considerations, Lee now reverses field. Instead of calling for an ever-increasing bureaucracy and “more” government expenditure due to the invisible hand of politics, Lee now writes:

the political process . . . results in government’s expanding beyond the point where its marginal value equals its marginal cost. The recommendation is not for the elimination of government, but for the downsizing of government.<sup>76</sup>

I confess that I am confused. Now, and in the case of the “Civil Aeronautics Board, the Interstate Commerce Commission, and the Selective Service System” and, I presume, although he doesn’t discuss them in this article, rent control, minimum wages, and tariffs, there is too much government and we must cut back. But all throughout the article we are told, again and again, that excessive government is justified in that if we don’t have it, or if we try to quell it, we do so at the expense of forcing ourselves to do without (or with vast under-allocations of resources to) defense, crime fighting, environmental protection and other goods and services it is imperative that we avail ourselves of.

In this very section Lee illustrates this point with a diagram showing the necessity of putting up with “police brutality . . . a particularly offensive example of excessive government.”<sup>77</sup> If there were any question about the desirability of tolerating excessive government for Lee,

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<sup>75</sup>Lee, “In Defense of Excessive Government,” pp. 684–85, emphasis added.

<sup>76</sup>Lee, “In Defense of Excessive Government,” p. 685.

<sup>77</sup>Lee, “In Defense of Excessive Government,” p. 685.

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he continues:

Give any agency of the government the power required to provide the maximum value over its ideal range of activity, and you have almost surely given it, and its special-interest clients, the power to expand its activity beyond that desirable range. . . . To obtain a reasonable level of inframarginal benefits from government activity, government has to have enough power to expand its activity beyond the point where, at the margin, that activity is destructive.<sup>78</sup>

But why are matters any different with regard to those aspects of government Lee recommends trimming?

The essence of this article is its advocacy of increased government, seemingly without end. Interspersed within it are a few adventitious claims for reducing the power of the state, but in the context of this essay, they are merely the emanations of lip service to a world-view with which Lee has long been associated.

### IS A DESIRABLE MINIMAL STATE POSSIBLE?

Lee maintains that if a minimal state were possible, it would not be desirable, and if it were desirable, it would not be possible. Let us consider these claims in reverse order. Why, first, given that a minimal government were desirable, would it be impossible to attain?

The minimal state is considered desirable because the public cannot control political decisions to prevent government from being used by special interests to trump the public interest when it expands beyond minimal state limits. But the special-interest influence that makes a large government such a threat to the general public is also the dominant force behind the growth in government.<sup>79</sup>

But the latter statement is not true. Just as a matter of positive economics, if Lee's public-choice-based theory were a correct explanation of increasing government encroachment, there would be no possibility of the existence of the economies of Hong Kong or Singapore, which are not earmarked by excessive government, at least relative to most other countries in the world.<sup>80</sup>

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<sup>78</sup>Lee, "In Defense of Excessive Government," p. 686.

<sup>79</sup>Lee, "In Defense of Excessive Government," p. 686.

<sup>80</sup>See James Gwartney, Robert Lawson, and Walter Block, *Economic Freedom*

Nor would this apply to the U.S. in its early days, where rarely was there to be found a government program that would be considered excessive, at least by today's standards. Some historians date the fall of the U.S. from Lyndon Johnson's "Great Society" welfare state.<sup>81</sup> Others go back to FDR's "New Deal." A better starting point would be the progressive period in the late nineteenth century.<sup>82</sup> An even better one would be Lincoln's War of Northern Aggression.<sup>83</sup>

In any event, if public choice considerations were definitive, these nations, areas and epochs of relative economic freedom could not have occurred, for we would have had to, in effect, bribe bureaucrats with the proceeds of excessive governmental "rent seeking" to induce them to produce needed statist programs.

A far better explanation of why we have sunk so low, economic freedom-wise, can be found in the role of the intellectuals. Their independence has been purchased by the forces of dirigisme, and their function is to weave apologetics for an ever-increasing role for the state.<sup>84</sup> The pen is indeed mightier than the sword, if only because, ultimately, it determines the direction in which the latter is pointed. As Rothbard notes:

since the early origins of the State, its rulers have always turned, as a necessary bolster to their rule, to an alliance with society's class of intellectuals. The masses do not cre-

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*of the World, 1975–1995* (Vancouver, B.C.: Fraser Institute, 1996).

<sup>81</sup>See Charles Murray, *Losing Ground: American Social Policy from 1950 to 1980* (New York: Basic Books, 1984); Allan C. Carlson, *Family Questions* (New Brunswick, N.J.: Transaction Publishers, 1988); and William Tucker, "Black Family Agonistes," *American Spectator* (July 1985), pp. 14–17.

<sup>82</sup>See Gabriel Kolko, *Triumph of Conservatism* (Chicago: Quadrangle Books, 1963).

<sup>83</sup>See, e.g., Jeffrey Rogers Hummel, *Emancipating Slaves, Enslaving Free Men: A History of the American Civil War* (Chicago: Open Court, 1996); and Thomas J. DiLorenzo, *The Real Lincoln: A New Look at Abraham Lincoln, His Agenda, and an Unnecessary War* (Roseville, Calif.: Prima Publishing, 2002).

<sup>84</sup>Sadly, the present piece under consideration, Lee, "In Defense of Excessive Government," can be considered a paradigm case in this regard. It is obvious that in weaving new and clever apologetics for the growth of the state, Lee worsens the status of economic freedom, a goal that he purports to favor, at least in some points in his missive, e.g., regarding the Civil Aeronautics Board, the Interstate Commerce Commission, the Selective Service System, etc.

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ate their own abstract ideas, or indeed think through these ideas independently; they follow passively the ideas adopted and promulgated by the body of intellectuals, who become the effective “opinion molders” in society. And since it is precisely a molding of opinion on behalf of the rulers that the State most desperately needs, this forms a firm basis for the age-old alliance of the intellectuals and the ruling classes of the State. The alliance is based on a *quid pro quo*: on the one hand, the intellectuals spread among the masses the idea that the State and its rulers are wise, good, sometimes divine, *and at the very least inevitable and better than any conceivable alternative*. In return for this panoply of ideology, the State incorporates the intellectuals as part of the ruling elite, granting them power, status, prestige, and material security. Furthermore, intellectuals are needed to staff the bureaucracy and to “plan” the economy and society.<sup>85</sup>

Later, in a passage seemingly addressed to Lee, although it was penned long before, Rothbard declares:

The rule of the State is . . . made to seem inevitable. Furthermore, any alternative to the existing State is encased in an aura of fear. Neglecting its own monopoly of theft and predation, the State raises the spectre among its subjects of the chaos that would supposedly ensue if the State should disappear. The people on their own, it is maintained, could not possibly supply their own protection against sporadic criminals and marauders.<sup>86</sup>

Second, let us consider why if a minimal state were possible, it would not be desirable. In Lee’s view, this is because:

if somehow the public acquired sufficient control over government to achieve a minimal state, the government would be subject to sufficient control to usefully address problems not within the purview of a minimal state. A government that is a good agent can obviously expand its reach farther with socially beneficial results than a government that is a poor agent. So the public control over government necessary to make a minimal state possible would render such a state no longer desirable.<sup>87</sup>

Let us suppose that libertarian ideology swept the country to a de-

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<sup>85</sup>Rothbard, *For a New Liberty*, p. 59, emphasis added.

<sup>86</sup>Rothbard, *For a New Liberty*, p. 61.

<sup>87</sup>Lee, “In Defense of Excessive Government,” p. 687.

gree sufficient to achieve the minimal state,<sup>88</sup> although there was still not enough support to entrench laissez faire capitalism or free market anarchism.<sup>89</sup> This would satisfy the first of Lee's conditions: there would now be sufficient control over the "rent seeking" bureaucrats to forestall them in their aggrandizing efforts. But does this mean that this minimal government could "usefully address problems not within the purview of a minimal state"? It is difficult to see why this should be so, unless one adopts the (coercive) socialistic philosophy according to which the *only* thing holding government back from playing a positive role in the economy is "rent seeking." But surely the Austrian critic of centrally planned socialism encompasses far more than this.<sup>90</sup>

Further, "a government that is a good agent" is a veritable contradiction in terms, even if, *mirabile dictu*, we somehow attain the power to achieve a limited version of it. Lee reckons without the insight that a limited evil is still an evil.<sup>91</sup>

When dealing with a fundamentalist archist<sup>92</sup> such as Lee, one must be careful to discern a belief system that is not at all open to the possibility that markets can function in areas traditionally reserved for the government. For him, the idea of a well-functioning society in the absence of the state is not merely impossible, it appears actually meaningless, so little credence does he give to this vision as a practical application of political philosophy. And yet, if the government of the U.S. is necessary since without it people would be in a

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<sup>88</sup>Oh happy day!

<sup>89</sup>Doh!

<sup>90</sup>In particular, the Austrian position stresses lack of information and deficiency in prices and appraisement, due to a lack of private property rights.

<sup>91</sup>Nozick, *Anarchy, State, and Utopia*, suffered from a similar problem. For an anarcho-capitalist critique of Nozick's position, see Randy Barnett, "Whither Anarchy? Has Robert Nozick Justified the State?" *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 15–22; Roy A. Childs Jr., "The Invisible Hand Strikes Back," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 23–34; Williamson M. Evers, "Toward a Reformulation of the Law of Contracts," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 3–14; Murray N. Rothbard, "Robert Nozick and the Immaculate Conception of the State," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 45–58; and John T. Sanders, "The Free Market Model versus Government: A Reply to Nozick," *Journal of Libertarian Studies* 1, no. 1 (Winter 1977), pp. 35–44.

<sup>92</sup>The archist is the opposite of the anarchist. The anarchist maintains that the absence of government is ideal; the archist that its presence is ideal.

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relationship of anarchy with one another (there is no over-arching legal authority ruling them all), then it also follows that since the countries of the world are now in precisely the same state of anarchy with one another as would be citizens of the U.S. without this particular government (there is no over-arching legal authority ruling them all), then a world government (e.g., the U.N. with real power) would be justified on these grounds. Yet, few are the archists willing to derive this non-denial conclusion from their own (implicit) premises.

Lee considers two objections to his argument. First:

It might be argued that it is possible to exert the type of broad control over government necessary to achieve a minimal state, but not exert the detailed control required to make government a better agent at solving particular problems.

He follows with his response:

The trouble that I see with this objection is that it presumes that government solutions require detailed involvement, or micromanaging. But this is not the case. Indeed, government can typically accomplish more by establishing a frame of incentives that motivates private action than by attempts to solve problems and provide services directly. For example, given the inefficiency associated with the command-and-control approach to pollution control, there are certainly pollution problems that it makes no economic sense for government to address but which could be beneficially addressed by market-incentive approaches.<sup>93</sup>

The difficulty with this reaction is that government is inefficient in *both* broad and narrow regulations, and this specifically includes “establishing a frame of incentives.” The state has established “incentives” with 90% marginal tax rates and above, welfare programs which reward sloth, idleness, promiscuity, and child illegitimacy,<sup>94</sup> rent controls, minimum wages, and trade restrictions. This is supposed to be productive, just because it is not micromanaging. As for his example of tradable emissions rights as a solution to pollution control, this, too, has come under withering attack from free enterprise, private property quarters.<sup>95</sup>

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<sup>93</sup>Lee, “In Defense of Excessive Government,” pp. 687, 688.

<sup>94</sup>See Gwartney, Lawson, and Block, *Economic Freedom of the World, 1975–1995*.

<sup>95</sup>See, e.g., Rothbard, “Law, Property Rights, and Air Pollution”; also McGee

The second objection considered by Lee emanates from adherents of natural rights. These people, benighted souls that they are:

reject such efficiency-based arguments when it comes to determining the acceptable role of government. From this perspective, the only justification for government is as a means of protecting the natural rights of individuals, and the only acceptable way of providing this protection is in ways that do not violate anyone's natural rights.

Lee's response to these critics is mere dogmatism:

To those who refuse to accept a positive connection between public control over government and the amount it is desirable for government to do, I have no response except to say I think they are wrong.<sup>96</sup>

## CONCLUSION

After the serious mauling he has given them all throughout his article, Lee attempts to win back his free enterprise credentials in his concluding remarks by writing that "I hope no one takes my remarks as a defense of the status quo or as an argument against trying to rein in the size and scope of government activities."<sup>97</sup> Yet, that is exactly the implication to be drawn from Lee's article. Are we completely to ignore the very title of his article?

Further, Lee must have had some misgivings himself about his essay, compelling him to declare:

At this point some of you may be wondering what happened to the Dwight Lee whose work has been largely devoted to pointing out and critiquing the excesses of government, not defending them. Let me make clear, the old Dwight Lee is still here.<sup>98</sup>

Nor will it help his resuscitation as a free enterpriser to declare at this late point that "I believe that government is larger than is warranted by

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and Block, "Pollution Tradings Permits as a Form of Market Socialism."

<sup>96</sup>Lee, "In Defense of Excessive Government," p. 688. One may be excused for wondering if such fulminations belong in a supposedly prestigious scholarly journal.

<sup>97</sup>Lee, "In Defense of Excessive Government," p. 688.

<sup>98</sup>Lee, "In Defense of Excessive Government," p. 688.

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my defense of excessive government.”<sup>99</sup> After all, he fails to give even a scintilla of a *reason* for this claim.

Lee believes, also, that “public choice arguments can help restrain, and possibly reverse, government growth, at least marginally,” by “reduc(ing) the influence of politically organized interest groups.”<sup>100</sup> If so, then based on the gist of the entire corpus of his article, this school of thought is a very dangerous one. Remember, according to this article, government is good, and more government is even better, even “excessive” government, because without the excesses and inefficiencies, we cannot have the crucially important “public goods” programs that government and only government can provide. So if the Public Choice School succeeds at restraining, and possibly reversing, government growth, then it will put at risk the entire apparatus of the state.

Lee ends on the following note: “But with luck and public choice scholars attacking government excess rather than defending it, there will soon be less excess to defend.” How this is possible to reconcile with an essay the burden of which is to extol excessive government, is beyond my ability to discern.

Lee’s is a brilliant and courageous essay in which he takes the insights of the Public Choice School rigorously to their logical conclusion. Nor does he shrink from embracing the implications of his own theory.<sup>101</sup> This is admirable, in a scholarly sense. But although economics boasts the beauty of mathematics or geometry, it is also a humane science with immediate political implications for our lives.

Lee’s conclusions, in my view, are indistinguishable from those favored by advocates of totalitarian communism or nazism. His is a recipe for no less than the destruction of economic freedom. There is no logical stopping point for government intervention once we grant the existence of the invisible hand of the political system. The fact that Lee ended up in a place so inhospitable to the political economic philosophy he has been associated with all his career should have given him pause for thought. It did not. Hopefully, the present article will make a contribution in that direction.

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<sup>99</sup>Lee, “In Defense of Excessive Government,” p. 688.

<sup>100</sup>Lee, “In Defense of Excessive Government,” pp 688, 689.

<sup>101</sup>Apart, of course, from his conclusion, and from a few inconsistent gestures in the direction of free enterprise sprinkled throughout his paper, where he attempts to deny his thesis.

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