

# **The Theory of Taxation**

Pierre-Joseph Proudhon

1861

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## Relation of the State and Liberty, according to modern right.

Modern right, by introducing itself in the place of the ancient right, has done one new thing: it has put in the presence of one another, on the same line, two powers which until now had been in a relation of subordination. These two powers are the *State* and the *Individual*, in other words *Government* and *Liberty*.

The Revolution, indeed, has not suppressed that occult, mystical presence, that one called the sovereign, and that we name more willingly the State; it has not reduced society to lone individuals, compromising, contracting between them, and of their free transaction making for themselves a common law, as the *Social Contract* of J.-J. Rousseau gave us to understand.

No, Government, Power, State, as one wishes to call it, is found again, under the ruins of the *ancien régime*, complete, perfectly intact, and stronger than before. What is new since the Revolution, is Liberty, I mean the condition made of Liberty, its civil and political state.

Let us note, besides, that the State, as the Revolution conceived it, is not a purely abstract thing, as some, Rousseau among others, have supposed, a sort of legal fiction; it is a reality as positive as society itself, as the individual even. The State is the power of collectivity which results, in every agglomeration of human beings, from their mutual relations, from the solidarity of their interests, from their community of action, from the practice of their opinions and passions. The State does not exist without the citizens, doubtless; it is not prior nor superior to them; but it exists for the very reason that they exist, distinguishing itself from each and all by special faculties and attributes. And liberty is no longer a fictive power, consisting of a simple faculty to choose between doing and not doing: it is a positive faculty, *sui generis*, which is to the individual, assemblage of diverse passions and faculties, what the State is to the collectivity of citizens, the highest power of conception and of creation of being (D).

This is why the reason of the State is not the same thing as individual reason; why the interest of the State is not the same as private interest, even if that was identical in the majority or the totality of citizens; why the acts of government are of a different nature than the acts of the simple individual. The faculties, attributes, interests, differ between the citizen and the State as the individual and the collective differ between them: we have seen a beautiful example of it, when we have posed that principle that the law of exchange is not the same for the individual and for the State.

Under the regime of divine right, the reason of State being confused with the dynastic, aristocratic or clerical reason, could not always be in conformity with justice; that is what has caused the banishment, by modern right, of the abusive principle of the reason of State. Just so, the interest of the State, being confused with the interest of dynasty or of caste, was not in complete conformity with Justice; and it is that which makes every society transformed by the Revolution tend to republican government.

Under the new regime, on the contrary, the reason of State must in complete conformity with Justice, the true expression of right, reason essentially general and synthetic, distinct consequently from the reason of the citizen, always more or less specialized and individual (E). Similarly, the interest of the State is purged of all aristocratic and dynastic pretension; the interest of the State is above all an interest of noble right, which implies that its nature is other than that of individual interest.

The author of the *Social Contract* claimed, and those who follow him have repeated after him, that the true sovereign is the citizen; that the prince, organ of the State, is only the agent

of the citizen; consequently that the State is the chose of the citizen: all that would be bon à dire while it was a question of claiming the rights of man and of the citizen and of inaugurating liberty against despotism. Presently the Revolution no longer encounters obstacles, at least from the side of the *ancien régime*: it is a question of rightly knowing its thought and of putting it into execution. From this point of view the language of Rousseau has become incorrect, I would even say that it is false and dangerous.

## **Determination of the functions, attributes and prerogatives of the State, according to modern right.**

The State, a power of collectivity, having its own and specific reason, its eminent interest, its outstanding functions, the State, as such, has *rights* too, rights that it is impossible to misunderstand without putting immediately in peril the right, the fortune and the liberty of the citizens themselves.

The State is the protector of the liberty and property of the citizens, not only of those who are born, but of those who are to be born. Its guardianship embraces the present and future, and extends to the future generations: thus the State has rights proportionate to its obligations; without that, what would its foresight serve?

The state oversees the execution of the laws; it is the guardian of the public faith and the guarantor of the observation of contracts. These attributions imply new rights in the State, as much over persons as things, that one could not deny it without destroying it, without breaking the social bond.

The State is the justice-bringer par excellence; it alone is charged with the execution of judgments. De ce chef encore, the State has its rights, without which its own guarantee, its justice, would become null.

All of that, you say, existed before in the State. The principle then and its corollaries, the theory and the application remain at base the same, nothing has changed? The Revolution has been a useless work.

This has changed between the ancient and the new regime, the in the past the State was incarnated in a man: “*L’État c’est moi*;” while today it finds its reality in itself, as a power of collectivity; — that in the past, that State made man, that State-King was absolute, while now it is subject to justice, and subject as a consequence to the control of the citizens; — that in the past the reason of the State was infected by aristocratic and princely reason, while today, exposed to all the critiques, to all the protests, it has strength only from Right and Truth; — that in the past, the interest of the State was confused with the interest of the princes, which distorted the administration and caused justice to stumble, which today a similar confusion of interests establishes the crime of misappropriation and prevarication; — that finally, in the past, the subject only appeared on its knees before it sovereign, as we saw it in the Estates General, while since the Revolution the citizen deals with the State as equal to equal, which is precisely what allows us to define tax as an exchange, and to consider the State, in the administration of the public funds, as a simple trader.

The State has preserved its power, its strength, which alone renders it respectable, constitutes its credit, creates awards and prerogatives for it, but it has lost its *authority*. It no longer has anything but Rights, guaranteed by the rights and interests of the citizens themselves. It is itself,

if we can put it this way, a species of citizen; it is a civil person, like families, commercial societies, corporations, and communes. Just as there is no sovereign, there is no longer a servant, as it has been said, that would be to remake the tyrant: he is the first among his peers.

Thus liberty, which counts for nothing in the State, subordinated, absorbed as it was by the good pleasure of the sovereign, liberty has become a power equal in dignity to the State. Its definition with regard to the State is the same as with regard to the citizens: *Liberty, in the man, is the power to create, innovate, reform, modify, in a word to do everything that exceeds the power of nature and that of the State, and which does no harm to the rights of others*, whether that other is a simple citizen or the State. It is according to this principle that the State must abstain from everything that does not absolutely require its initiative, in order to leave a vaster field to individual liberty.

Ancient society, established on absolutism, thus tended to concentration and immobility.

The new society, established on the dualism of liberty and the State, tends to decentralization and movement. The idea of human perfectibility, or progress, has revealed itself in humanity at the same time as the new right.

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## **Note D, Page 65.**

Liberty and the State. — The antithesis of the State and of Liberty, presented here as the foundation and principle of modern society, by replacement of the supremacy of the State and the subordination of Liberty, which made the base of ancient society, that antithesis, eminently organic, will not be admitted by the publicists and partisans of the principle of authority, of the eminent domain of the State, of governmental initiative and of the subordination of the citizen or rather subject; it will not be understood by those who, formed by the lessons of the old scholasticism, are accustomed to see in the State and free will only abstractions. Those, just like the old partisans of divine right, are born enemies of *self-government*, invariable adversaries of true democracy, and condemned to the eternal arbitrariness of the reason of State and of taxation. For them the State is a mystical entity, before which every individuality must bow; Liberty is not a power, and taxation is not an exchange; principles are fictions of which the man of State makes what he wants, justice a convention and politics a bascule. These *doctrinaires*, as they are called, the skepticism and misanthropy of which today governs Europe, are as far beneath the ancient monarchists and feudalists, as arbitrary will is beneath faith, Machiavelli beneath the Bible. Europe owes to this school of pestilence the confusion of ideas and the dissolution of morals by which it is beset: the slack maxims Jesuits could produce nothing comparable.

This is not the place to open a discussion of the actuality of the State and of Liberty: I will content myself with referring provisionally to my work *Justice in the Revolution and in the Church*, Fourth and Eighth Studies of the Belgian edition.

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## Note E, Page 66.

Opposition of collective and individual reason. See, on this curious subject, the work indicated in the preceding note, Sixth Study of the Belgian edition.

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### 10. — GENERAL SUMMARY.

Such is the ensemble of ideas resulting from my study of the question raised by the State Council of the canton of Vaud. To first free these ideas from the mass of facts, from the chaos of empiricism, and then explain them with advantage, demanded a profound critique of the fiscal institutions, a critique that I could have made much more voluminous, for no cost but the citations, but that, such as it is, appears to me sufficient for enlightened minds or administrators versed in practice.

A complete theory of taxation, of its principles, its rules, its nature, its object, its anomalies, and its function in the economic system of nations, has never, as far as I know, been given: thanks to the appeal of the honorable councilors of the State of Vaud, it will at least have been sketched, and for the first time.

What is that theory?

Here is no preconceived system, no utopian tendency, nothing that could appear foreign to even the most old-fashioned sorts, nothing that the most routine tax system could by right find paradoxical. We have taken hold of the facts and we have analyzed them; we have isolated their principle and put their spirit in relief. In a rapid review, we have outlined the history of taxation, in ancient as well as modern society; we have determined its aim and clarified its contradictions, which means its laws.

Then, with the aid of reductions, transformations, displacements, applying proportionality here and progression there; sometimes striking the question of consumption, sometimes production and circulation, and making the system pivot on land rent, we have ended—or at least such is my hope—with a rational, harmonious ensemble, all the parts of which suppose one another, like the members of an animal; we have produced an organic whole, a function of a still larger organism, which is society and the State.

Let the more experienced rework, now, the plan for reforms that we have just presented in rough form, taking the French budget for their topic; let others, applying it to the various States of Europe, subject it to all the modifications demanded by local customs and habits; let them change the proportions proposed in this report; it will matter little.

Whoever concerns themselves with taxation and seeks, for any country or society, its normal constitution, must take into account, above all, the facts and propositions that we have demonstrated, which can be considered as so many axioms. These facts and propositions are:

That taxation, according to ancient law, was first a *tribute*;

But that, according to modern law and economic science, it is nothing other than an exchange;

That this transformation of taxation, from ancient society to the new society, is the corollary of the transformation undergone by the State, once sovereign, but now balanced by a rival power, *Liberty*;

That from that fundamental notion, namely, that taxation is an exchange, its whole theory is deduced;

That thus, unlike other traders, the State owes its services at *cost price*;

That it does not *impose* them, but waits for the nation to demand them;

That as a consequence of that *free* demand of the citizens, the tax quota could not increase in an indefinite manner, but must on the contrary decrease endlessly, from which arises the necessity of assigning *maximum* to taxation;

That the centralization of government in a large country is incompatible with that unlimited reduction of the general costs of the State, and consequently with the regularity of the budget;

That, in a normal state of thing, the sum of the contributions would appear to have to be one *twentieth* of the total product of the country, and can be reduced to *thirtieth*;

That, in modern societies, all the citizens being *equal* before the law, the expenses of the State must be settled without distinction by all and *in proportion* to their abilities;

That all taxation, whatever its form and its base, is ultimately collected on the collective *product*;

That as a consequence all tax fees are reduced to a tax on consumption;

That, through the movement of values and the rule that presides over the formation of prices, that tax on consumption finds itself settled, in a very large part, not individually as it seems from the rates of contribution, but by the masses;

That as a result of this taxation, taken in its general case, is reduced, but for minor details, to a *capitation*;

That, with regard to the inequality of fortunes, that capitation constitutes a true *progressive tax* in inverse proportion to fortune and direct proportion to indigence;

That, under the influence of these two causes, the incessant movement of values and the inequality of fortunes, the problem of the *balancing of taxation* is insoluble, and that all that we can obtain in this regard is reduced to an *approximation*;

That in order to return to Justice in taxation, the true method, the single and unique means is thus to work toward the *equalization of fortunes* themselves, something that does not depend on the initiative of the State, but solely on the intelligence and will of the citizens who consent to the tax;

That every attempt made in another direction in order to arrive at the equalization of taxation, either by a *progressive tax*, or by a *tax on capital*, or by a *tax on rent or income*, leads to absurdity and brings about enormous perturbations for public economy;

That a single tax, invariably resulting in the concentration in one single instance of all the fiscal iniquities divided in a multitude de taxes, would be the most crushing of taxes and the worst of systems;

That the true march to follow being, in the final account, to submit to the law, or, to put it more correctly, to the egalitarian tendency, the whole difficulty consists in turning taxation in that direction and organizing it in that spirit;

That the first thing to do in order to arrive at that end is to constitute an *allowance* to the State;

That this allowance should be established on the *rent* of lands appropriated and in a good state for cultivation [exploitation];

That on top of that allowance, on which the whole system of taxation must pivot, the State should establish two categories of taxes, one on *public services*, directly reproductive, credit,

means of transport, mines, docks, waters and forests, etc.; the other consisting of a series of *facultative* contributions, on all the objects of consumption and use, on transactions, etc.;

That for these various contributions, the State will apply, according to the circumstances, progression to some, proportionality to others, in such a way as to promote the egalitarian movement, the initiative, direction and acceleration of which will be up to the nation alone.

All of that, I dare say, is simple, clear, natural, logical, and, for whoever rallies to the new right, conclusive. The practice finds its explanation there, the historical movement its justification, the utopia itself its reason. The transitions can be handled as slowly as you wish.

Now, that legislation of taxation, where we see the ancient iniquity converted little by little into an instrument of Justice, is not our invention, and it is that which makes its triumph. We have deduced it from principles and facts above all arbitrariness; we have freed it, in short, from the movements of history and the contradiction of ideas; we have grasped its vestiges and indicated the organizing and liberal tendency even in the inventions of the most tyrannical tax system. So that if our democratic civilization, victorious over foolish resistances, ever manages to determine its aspirations and to constitute itself on a true basis, it would find its most decisive argument, and its consolidation, in the theory of taxation.

The progressive, indefinite reduction of the costs of the State;

Some taxes combined in such a way that they serve at once to pay for the public services, to moderate the economic movement, to discipline the market, and to promote the emancipation of the working classes;

The balance of properties;

The inviolability of inheritances;

The leveling of fortunes;

Society advancing with an even step in justice, liberty and wealth:

That is what we mean from now on by this word, odious and curse for so many centuries, Taxation.



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The Theory of Taxation  
1861

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