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LIMITS

PUBLIC INTEREST INSTITUTE

On Power and the Use of Coercion

Markets Or Government? Let The Lessons Of Katrina Be A Guide

by Byron Schlomach, Ph.D.

Step off a ladder twenty feet up, you are going to get hurt. The law of gravity is unforgiving. Just as physical laws can only be ignored at one's peril, economic laws are equally unforgiving. The most basic economic law is scarcity; that is, there are only limited resources to satisfy humanity's unlimited wants and needs. There is no free lunch.

The Romans "solved" scarcity through conquest and slavery — they took others' lunches. We have solved it through free enterprise, liberty, and markets — we make our own lunches and mostly get to keep them. Natural disasters like Hurricane Katrina make the problem of scarcity worse, not just by destroying investments that took decades to build, but by making it more difficult for humans to carry on their daily struggle with scarcity.

The only way to fulfill at least some of our wants and improve our standard of living is to apply human ingenuity and effort. We have to work. Even with automation and computers, we still must produce. The issue is how best to encourage individuals to work. Break out the whips like the Romans? Or encourage private enterprise and reward diligence?

In some ways Hurricane Katrina serves to illustrate how important institutions are in getting the best from human endeavors. Government at all levels seemed initially paralyzed by the disaster. Plans were not carried out. What had been foretold of New Orleans' fate almost a year earlier in National Geographic was met with stunned inaction by officials charged with anticipating the inevitable. Meanwhile, prior to the hurricane making landfall, Home Depot pulled generators from its stores' shelves all over the nation and shipped them to stores just beyond the hurricane's reach.

In the face of scarcity, hard decisions have to be made. Decisions determining our livelihoods. Decisions about how much we work, how hard we work, and whether our work is mostly physical or mental. Some kinds of work can be more valuable than others. Somehow, we have to decide who does what, how it gets done, where, how much, and for whom.

Home Depot did a good job of making these decisions in anticipation of the Katrina disaster. Government did not, even as it spent some $500 million a day.

There are only two ways to organize and coordinate all the

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The Video Future Approacheth

by Glenn Harlan Reynolds

Congress, as usual, is behind the times. The molasses-like transition to high-definition TV continues in its glacial pace, but Congress is nonetheless voting to subsidize consumers as the switch takes place:

> *Committee Chairman Ted Stevens, R-Alaska, said Congress needs to do something to help consumers with the older analog sets, an estimated 21 million households. "If we're mandating this (digital) conversion, we cannot leave people behind because they can't afford" digital television sets, he said. . . .*
>
> *The subsidy program would be paid for by money raised from the auction of the analog spectrum the broadcasters are vacating. The subsidy would be available for all those households with older televisions, and it would pay for converter boxes for all the TVs in a particular household, regardless of financial status.*
>
> *Stevens estimates that the converter boxes would cost about $50. His plan would call for the government to pay roughly $40, and the consumer would make a co-payment of $10.*[1]

I suppose that there are worse ways to waste the taxpayers' money — I can't actually think of any at the moment, but given Congress' ingenuity I suppose that Ted Stevens and his colleagues probably could — but this strikes me as pretty pathetic, especially when the government is laying off scientists for lack of money. Subsidizing TV and starving science seems like a recipe for something short of national greatness.

Meanwhile, technology is, as usual, passing Congress by. Because while the long-planned switch to HDTV creeps along, video technology is advancing by leaps and bounds in areas that, in what I'm pretty sure isn't really a coincidence, Congress hasn't managed to get its hands on yet. The result, widespread video podcasting, is likely to bring about something far more revolutionary than higher resolution commercial broadcasts: It might actually produce TV that people want to watch.

Podcasting is already big, with people producing "radio" programs for Internet distribution using nothing more than a computer and an Internet connection. Video podcasting will make producing and distributing TV programming nearly as easy. Podcasting and audio MP3 technology have demonstrated pretty clearly that in the audio world people care more about hearing what they want, when they want, than they care about super high

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Does the Headlee Tax Cap Need to be Tightened?

by Jack P. McHugh

Most informed Michigan citizens know that the revenue cap imposed by the 1978 Headlee constitutional amendment limits state spending, taxes, and fees. What these same Michiganians probably do not know is that the Headlee limit looks increasingly unlikely to restrain the growth of state government.

Passed in the midst of a nationwide tax revolt, the Headlee Constitutional Amendment established that "the Legislature shall not impose taxes of any kind which, together with all other revenues of the state, federal aid excluded, exceed" 9.49 percent of the aggregate personal income of Michigan citizens in any given year. If revenues overstep the limit by one percent or more, the state must prorate and rebate the "overcharge" back to every person who paid personal income or business tax in the previous year.

The revenue cap in dollar terms has risen as personal income has grown. Some of that is due to inflation, but much of the increase has a happier cause: Our society and most families are wealthier now. Given the presence of a mostly free-market system and the rule of law, this is not surprising. Despite attacks from those who hate or resent these institutions, history shows that when allowed to flourish, free markets and the rule of law always create more wealth and distribute it more widely.

There is lots of direct and indirect evidence for this. For example, the increasing wealth of most families can be seen in homeownership rates. In Michigan, even in its current economic malaise, 77.1 percent of households owned their own home in 2004, up from 70.7 percent 20 years ago.

For aggregate personal income growth we have direct evidence. In constant 2003 dollars, Michigan's per-capita personal income grew from the equivalent of $24,144 in 1977, the year of the Headlee index, to $31,189 in 2003 — a 29 percent increase in real terms. Over the same period, the state's population rose from 9.20 million to 10.08 million. These are the components that combine to determine the Headlee revenue limit.

So has Headlee restrained tax and spending growth? The answer is an unequivocal "maybe." In its 26-year history, the cap was exceeded just three times, and only once by enough to trigger a rebate. In 19 of those years, revenue was at least $500 million beneath the cap, and in 15 years that cushion exceeded $1 billion. As a result of Proposal A in 1994, $3.5 billion in school spending and revenue was shifted to the state, and still there was enough cushion to accommodate this change without triggering a rebate.

It's impossible to definitively conclude whether this history proves the cap was just too high to be effective, or

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Question of the Quarter:

Do you think tax limitations, such as the Headlee Amendment, are an effective method to control the growth of state government?

Send your thoughts on this issue to us at public.interest.institute@limitedgovernment.org. We may publish some of your ideas in the March 2006 issue of *LIMITS*.

To continue our publications, Public Interest Institute relies on the suppor solutions to today's public-policy challenges. Please use the enclosed postage

Markets Or Government?

by Byron Schlomach, Ph.D.

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work that goes into our ongoing battle with scarcity. We can decide for ourselves, or someone else will decide for us. One way involves free enterprise and businesses big and small. The other requires big government and weighty bureaucracy. One lets individuals control their own destinies. The other leaves important decisions to the privileged few in government.

Even before the first winds blew down Bourbon Street, private organizations were preparing to enter the fray. While competing layers of local, state, and federal bureaucracies argued about protocols and command chains, individuals were coordinating relief and rescue efforts.

The marketplace — the exuberant collection of for-profit enterprises, ministries, non-profit agencies, and caring individuals — provided rapidly for an efficient distribution of scarce resources where the need was most abundant. Ironically, it was government roadblocks — some literal, some bureaucratic — that slowed the response of private relief agencies. Instead of providing a solution, local, state, and federal officials simply stood in the way.

As long as there is scarcity — and there always will be — we will have to work. That work can be harnessed, linked, and rewarded through voluntary free enterprise, or it can be harnessed and chained through the force of government. Hurricane Katrina, in its own way, demonstrates the power of liberty over the power of the whip.

Every lunch has a cost, and the marketplace ensures the cost is bearable, even when the labor is one of love born out of tragedy.

Byron Schlomach, Ph.D., is the Chief Economist for the Texas Public Policy Foundation, an Austin, Texas-based, non-profit research institute guided by the core principles of limited government, free markets, private property rights, individual liberty, and personal responsibility.

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For more information on Texas Public Policy Foundation, visit Texas Public Policy Foundation's web site at www.texaspolicy.com.

The Video Future Approacheth

by Glenn Harlan Reynolds

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sound quality. I suspect that video podcasting will demonstrate the same thing: a pretty good picture coupled with a show that you actually like is worth more than a stupendous picture coupled with a show you don't care about that much. And according to some people, the Video iPod is already good enough to ensure that video podcasting will be "huge."

If Congress cared about promoting video distribution technology, it could do a lot — without even spending taxpayer dollars — by reforming intellectual property law to make it easier on amateur producers and distributors.[2] That seems like a better enterprise than forking out taxpayer dollars to help buy set-top boxes, but one that's unlikely to materialize since it would involve making the entertainment industry unhappy.

On the other hand, I should probably be thankful that Congress doesn't seem to "get" the coming video revolution. As its behavior with HDTV has demonstrated, Congress isn't much good at helping new technologies along anyway, and it may well be that in these overregulated times technologies need to be fast, nimble, and below the radar to flourish. In the 21st Century, at least, Congress' biggest contribution to promoting the progress of science and the useful arts may sometimes be to overlook them until they've become a reality.

Endnotes:

[1] Jennifer C. Kerr, "Senate Looks to Spend $3B on Digital TV," *Washington Post*, October 20, 2005, http://www.washingtonpost.com/wp-dyn/content/article/2005/10/20/AR2005102001979.html.

[2] For some general advice on reforming intellectual property law, read J.D. Lasica's book, *Darknet : Hollywood's War Against the Digital Generation*.

Glenn Harlan Reynolds is a Contributing Editor for Tech Central Station, where this article first appeared, and a law professor at the University of Tennessee. This article is reprinted with permission from Tech Central Station (TCS).

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Does the Headlee Tax Cap Need to be Tightened?

by Jack P. McHugh

(continued from page 3)

the opposite: that it held back Legislators from tax and fee hikes they might otherwise have passed. The cap might have been effective in another way, too: Using personal income as the Headlee index gave the beneficiaries of government spending a stake in economic growth, possibly inhibiting the adoption of more economically damaging taxes and regulations.

Having said that, there is no question that since 2001 the Headlee cap has "run away" so far from actual revenues that it has become irrelevant. In 1980, revenues were $526 million less than the maximum amount allowed, a difference equal to 7.1 percent of actual spending. Fast forward to 2005: The revenue cap is $29.84 billion, and actual revenues are $24.16 billion. This means Lansing could raise taxes and spending by $5.67 billion, or 23.5 percent, without bumping against the cap. This would translate into a tax increase of more than $560 on every man, woman and child in the state.

Alternatively, a Headlee government revenue cap of 9.49 percent of personal income would limit taxes and spending this year if the state's per-capita annual income dropped by around $5,930 ($17,790 for a family of three), or the state's population fell by about 1.9 million and reduced total personal income proportionally. Both scenarios seem unlikely.

Michigan citizens concerned about the growth of state government need to look closely at the Headlee amendment's constitutional cap on state government taxes, fees, and spending. Perhaps it is working invisibly — but perhaps it is no longer very effective at all.

Jack P. McHugh is a Legislative Analyst for Mackinac Center for Public Policy, a research and educational institute headquartered in Midland, Michigan.

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All I Want for Christmas is an Internet Tax

by Noah Clarke

The Internet is probably the greatest boon to individual liberty and entrepreneurship since Ford started churning out affordable cars. It allows people to decide where and with whom they will shop.

States should learn some lessons, including finding ways to cut, not raise, taxes.

But as a recent headline in *USA Today* reads, "States hope to begin taxing online sales." The newspaper continues, "the group [of 18 states] hopes to convince retailers — but does not force them — to begin collecting taxes and turning it over to state governments." Merry Christmas, shoppers.

According to the National Conference of State Legislatures (NCSL), states lose $8.9 billion a year from uncollected sales taxes on electronic transactions.

But you can only "lose" something if it belongs to you. The Supreme Court ruled twice, in 1967 and again in 1992, that states can only collect taxes from companies located in their territory — otherwise, what would stop them from taxing anyone, anywhere.

Let's rephrase the NCSL's claim, then: taxpayers save $8.9 billion, which they now can spend and invest.

Slapping a tax on Internet sales would hurt the many entrepreneurs who make a living on e-commerce. For example, 724,000 Americans use eBay as a main or supplementary source of income, making the online auction site one of the nation's leading job producers.

The Internet has cut costs for commerce. States should learn some lessons, including finding ways to cut, not raise, taxes.

Noah Clarke is an Economist for the Goldwater Institute. Reprinted with permission from the author.

The Goldwater Institute was established in 1988 as an independent, nonpartisan research and educational organization dedicated to the study of public policy in Arizona. Through research papers, commentaries, and events, the Goldwater Institute works to broaden the parameters of public policy discussions to allow consideration of policies consistent with the principles championed by the late Senator Barry Goldwater and fundamental to free societies — limited government, economic freedom, and individual responsibility.

For more information on the Goldwater Institute, visit www.goldwaterinstitute.org.

If you are interested in reading more about the issue of taxing the Internet visit Public Interest Institute's website, www.limitedgovernment.org, to see the following articles:

"Problems with Taxing the Internet"
April 2000 *INSTITUTE BRIEF*, Vol. 7, No. 12

"Hands Off Taxing On-Line Purchases!,"
October 2001 *INSTITUTE BRIEF*, Vol. 8, No. 31

"Tax Fairness for All Businesses — On the Street or On-line."
January 2004 *INSTITUTE BRIEF*, Vol. 11, No. 3

Colorado Voters Have Spoken

by Amy K. Frantz

On November 1, 2005, the citizens of Colorado voted on two tax- and spending-related statutory ballot measures, Referendums C and D. Referendum C, which was approved by a vote of 52% to 48%, allows the Colorado state government to keep more than $3 billion in tax revenue that would otherwise be rebated to taxpayers over the next five years. Referendum D, if passed, would have granted the state the authority to borrow $2.1 billion to fund transportation and school construction projects, but was defeated by the voters by a close vote, 51% to 49%.

In 1992 Colorado voters approved the Taxpayers Bill of Rights (TABOR) Constitutional Amendment. TABOR limited state spending to the previous year's tax revenue level, adjusted for inflation and population growth. Any tax revenue collected above that level was rebated to the taxpayers.

Constitutional Amendment 23, adopted in 2000, put K-12 education spending on autopilot, calling for an annual funding increase for the state's K-12 education budget by the rate of inflation plus one percent of the previous year's spending level. Amendment 23, combined with the recession, limited the dollars available for other programs. However, Colorado's tax-and-spenders pointed their fingers squarely at TABOR as the problem, not Amendment 23. For them, the solution is always to collect more tax dollars, not to limit spending or look for waste in the state budget.

While the approval of Referendum C is disappointing to those of us who support limited government and lower taxes, at least the voters were allowed to have a voice in how much the government would spend. Under TABOR, the government can ask the voters to give up their tax rebate and allow the government to keep it to spend for the year. The people of Colorado have spoken, and 52% of those voting agreed to allow the state to keep the extra tax revenue rather than rebate it to the people.

However, those voters may have believed that if they didn't support Referendum C the sky in Colorado would fall (and that was just the beginning) due to the scare campaign conducted by those who were itching to get their hands on another $3-4 billion for the state government to spend. Referendum C supporters claimed that state universities would close, state parks would close, the Veterans' cemetery in Grand Junction would close, senior citizens centers would stop serving lunch, some amputees would not be able to get artificial limbs, and programs to prevent teenage suicide would shut down. These were among the many dire outcomes predicted by the tax-and-spend crowd if Referendum C did not pass.

Prior to the passage of Referendum C, the Colorado state budget was set to rise from $5.8 billion to $7.3 billion over the next five years, even with the TABOR limits in place. But apparently an increase of $1.5 billion in the budget was not nearly enough to stave off this calamity.

Here in Iowa, the People's Right to Vote Constitutional Amendment was approved by the Legislature in 2004. In order to advance, the Legislature must approve the proposed Amendment again next year. Iowans would then vote on the proposed Amendment in a general election. If the People's Right to Vote Amendment is adopted, Iowans will have the opportunity to have a direct say in how much the state government can take from us in taxes. Unfortunately, we can probably also look forward to massive campaigns designed to scare voters into believing the world (or at least the state) will end if we don't support the tax increases future Legislatures will want to impose.

Colorado Governor Bill Owens has pledged that Referendum C is only a five-year time out from TABOR, and that in 2011 the revenue and spending limits will once again be in effect. Governor Owens is term-limited, thus the state will have a new Governor in 2007, but the citizens of Colorado, and others who believe in limited government, will be watching to see if that promise is kept.

Amy K. Frantz is Senior Research Analyst with Public Interest Institute.

Public Interest Institute
***at* Iowa Wesleyan College**
600 North Jackson Street
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Initiative and Referendum in the States

by Amy K. Frantz

Here are some results from recent elections in the states:

Voters in **Ohio** defeated four proposed Constitutional Amendments making changes in election procedures in the state. The rejected initiatives would have created a newly-appointed board to administer elections in the state, taking that responsibility away from the Secretary of State; allowed absentee voting for any reason; placed additional limits on political contributions; and reformed the redistricting procedure in Ohio to allow a non-partisan commission to create a plan rather than the State Legislature.

In **Texas**, a Constitutional Amendment providing that marriage consists only of the union between one man and one woman in that state was overwhelmingly approved, with 76 percent of voters voting in favor of this Amendment. Texas is the 19th state to approve a Constitutional Amendment on this issue.

Voters in **California** were apparently in no mood for change, with all eight measures on the ballot being defeated. Unions in the state campaigned heavily in particular against the "paycheck protection" proposal to prohibit public sector unions from using dues for political activities without obtaining an employee's consent. Also defeated was a measure to limit growth in the state budget to an average of the previous three years' revenue growth.

Voters in **Washington** defeated Initiative 912 to repeal an increase in the state's gasoline tax that was passed by the Legislature and signed into law by Governor Gregoire earlier this year. The gas tax is scheduled to increase a total of 9.5 cents per gallon over four years to fund road construction projects.

Amy K. Frantz is Senior Research Analyst with Public Interest Institute.