



PennState
Dickinson Law

DICKINSON LAW REVIEW
PUBLISHED SINCE 1897

Volume 60
Issue 2 *Dickinson Law Review - Volume 60,*
1955-1956

1-1-1956

The NAM Tax Program: "What is Good for General Bullmoose is Good for the Country"

John C. Chommie

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/dlra>

Recommended Citation

John C. Chommie, *The NAM Tax Program: "What is Good for General Bullmoose is Good for the Country"*, 60 DICK. L. REV. 155 (1960).

Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol60/iss2/5>

This Article is brought to you for free and open access by the Law Reviews at Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review by an authorized editor of Dickinson Law IDEAS. For more information, please contact lja10@psu.edu.

THE NAM TAX PROGRAM: "WHAT IS GOOD FOR GENERAL BULLMOOSE IS GOOD FOR THE COUNTRY"

By

JOHN C. CHOMMIE*

The National Association of Manufacturers has long been recognized as a bulwark of strength dedicated to the basic democratic tenet of shared power. If further proof of this organization's devotion to the general welfare were needed, it is to be found in its recently formulated *Tax Program For Economic Growth*.²

It is the purpose of this comment to examine this progressive³ program to the end that its obvious equities will not be submerged "by clever and beguiling phrases" from the "lunatic fringe".⁴

I. THE PLAN

At the outset it must be pointed out that a tax plan such as here proposed is not to be confused with a tax "planning agency". In the words of the association: "Such an agency would inevitably seek to mold the national destiny according to its own bias, prejudice, or phobia."⁵ Such an agency, of course, could only result in the populace becoming "perpetual wards of the state." The NAM, naturally, is not attempting to "mold the national destiny according to its own bias" because the purpose of the plan is to provide an unbiased tax program "for economic growth."

The core of the NAM plan is to be found in its proposals to reduce the surtaxes on individual and corporate income by five successive rate reductions. In the case of the individual income tax this would reduce the top bracket rate at the end of five years from 91 per cent to 35 per cent; in the case of the corporation this would reduce the combined normal and surtax rate from 52 per cent. to 35 per cent. Eight representative individual income brackets would be affected thusly:⁶

* Professor of Law, Dickinson School of Law.

¹ General Bullmoose in *L'I'L ABNER* by AL CAPP. General Bullmoose, of course, is just a symbol. See ARNOLD, *SYMBOLS OF GOVERNMENT* (1935).

² NATIONAL ASSOCIATION OF MANUFACTURERS (1955).

³ Not to be confused with progressive taxation.

⁴ Not to be confused with the National Association of Manufacturers.

⁵ A TAX PROGRAM FOR ECONOMIC GROWTH, NATIONAL ASSOCIATION OF MANUFACTURERS, 48 (1955). Hereinafter all page references are to the principal work unless otherwise indicated.

Income Bracket	Present Rate	Rate End 5th Year	% Decrease
\$200,000	91	35	62
70,000	81	32.16	61
38,000	69	29.8	57
22,000	59	27.8	53
16,000	50	26	48
10,000	38	24	37
6,000	30	22	27
2,000	20	20	0

The plan points out that while this rate reduction in the surtax will result in an annual revenue loss of some \$8.4 billion, assuming a constant federal budget of \$60 billion, economic growth over the five year period in question will result in increased revenue from the income and excise taxes of some \$8.9 billion. The benevolent character of the program is thus clearly apparent when one subtracts \$8.4 billion from \$8.9 billion resulting in a net gain to the revenue of \$.5 billion.

If further proof is needed of the association's charity it will be found in the proposal to remove the estate and gift tax from the federal government and reserve it to the states where ". . . the abuse of rates would be held in check by natural competition among the states."⁷ In this way, of course, not only would the states benefit but the hardships imposed upon the beneficiaries of those estates subject to the federal estate tax would be largely alleviated. In fact, throughout all of the program there is the thread of thought that relief should be granted to those most in need of relief.

Of further interest to labor, and lest some cynic or egghead point out that the core plan does not contain rate reduction for the lower incomes, is the proposal for a uniform manufacturers' excise tax. This would undoubtedly reduce the tax on the fur coat purchased by the factory worker for his wife every Christmas. The employee would also undoubtedly benefit from the proposal with respect to benefit plans to ". . . permit the exercise of managerial discretion in determining types, coverage, conditions of eligibility, contributions, and investments."⁸

Under the title of "Reforms Affecting All Taxpayers"⁹ NAM would permit taxpayers in the lower income brackets: to have their "tax accounting . . . conform to generally accepted accounting practices"; to have "full authority . . . to make depreciation deductions in accordance with" their "judgment as to useful and competitive life"; and, in case of an expansion in a basic industry to have the continued benefits of accelerated amortization. In addition,

⁶ p. 28.

⁷ p. 20.

⁸ p. 42.

⁹ pp. 44-45.

the laborer could: expense his major repairs and shortlived capital assets; deduct reserves set up "to fulfill future obligations arising from current operations"; continue to take percentage depletion on the oil well in his backyard; pay a lower rate on the gains realized from a sale of his capital assets ("Pending the complete elimination of capital gains taxation"); and, use the lower of cost or market for his LIFO inventories (this will be particularly useful to coal miners).

The final major plank in this platform consists of a proposal to amend the Constitution ". . . to limit the range of federal income tax progression and/or prescribe the permissible top rate of income tax."¹⁰ Of course, here the plan is not intended to limit the "ability of the government to raise all necessary revenue either during peace or war" provided this is done "without imposing excessive or discriminatory rates on any segment of the taxpaying public." There is no need for Constitutional restrictions on an excise tax because ". . . there is no danger of arbitrary imposition of excessive rates where tax ability and political power are co-terminous."¹¹ With the income taxes it is otherwise: ". . . one Congress can provide no protection against recurring abuses by later Congresses."¹² Some, at first hasty glance, may feel that this reveals a lack of trust in Congress. However, a study of the excise tax proposal with its uniform application and the plan's point that there is no danger from abuse here clearly affirms the association's faith in the most democratic of our governmental institutions.

II. THE BASIC PHILOSOPHY OF THE PLAN

Perhaps the most novel and key theory underlying the NAM program is its repeated insistence that "existing discriminations" in the federal tax structure be eliminated or lessened. Even without more proof of "existing discriminations" this noble purpose should be enough to convince even the most skeptical. But the program goes even further. It articulates under five guiding principles the guiding philosophy of the plan.¹³ These include such well-accepted and non-controversial principles as: the use of the taxing power for fiscal purposes only; moderate rates at all points; and the proposed Constitutional Amendment discussed above. But if the philosophy is to be really understood the two major contributions of this program to fiscal science must be examined in some detail. These are (1) "The Tax Program Should Be Broadly Based"; and, (2) "Taxation Should Not Impede Economic Progress."

"The Tax Program Should Be Broadly Based"

The association's broad base theory has a number of interesting but convincing facets. First, it is pointed out that a broad based tax system embraces

¹⁰ p. 46.

¹¹ p. 53.

¹² *Ibid.*

¹³ pp. 47-53.

more than one method of taxation. This is understandable. Any particular taxpayer or group may escape one method. An example of this is the well known fact that many from the lower income groups (in fact, all of them) escape personal income taxation because they lack the ability to make enough money to pay. Therefore, in as much as "every requirement of a broadly based tax system would be met by imposing the necessary tax levy on the gross income of individuals, without deductions or exemptions," equity demands that this group be reached in some other way. Only the non-thinking would insist upon subsistence first and taxes second. The obligation of every citizen to pay is conclusively established by the cogent statement that ". . . [t]he Constitution provides that all who are citizens are citizens of the United States as well as of a particular state."¹⁴ The same principle is applicable, of course, to business corporations. Here ". . . there should be no exemption of activities undertaken for profits regardless of the form of organization—corporation, cooperative, or whatever—and no complete exemption because of small size."¹⁵

It follows from above that the excise tax should also "levy on the largest possible taxable base." Here NAM goes out of its way to make a special ". . . case for uniform excise taxation."¹⁶ In so doing it points out the vicious nature of the present selective system and how this is inconsistent with the need for an elimination of discrimination. But it goes even further in its conclusive proof by stating that ". . . [t]here can be no defense of a selective system in a free economic society where all producers have equal right of access to the market".¹⁷

A uniform manufacturers' excise tax would not interfere with the states' prerogative to levy a uniform retail sales tax. In such cases it would be doubly sure that equity would prevail in that the consumer would be forced to pay twice on a single purchase of most consumer goods (both, of course, at moderate rates).

"Taxation Should Not Impede Economic Progress"

Any sound economist, of course, knows that ". . . [a]ll material progress comes from capital formation."¹⁸ Therefore it follows that those who directly contribute to capital formation should be permitted to retain their incomes. The solution is obvious: simply determine what groups so contribute and reduce their tax bill. There was no need for NAM to establish who these groups are. They are well known. Volume-wise most of the corporate securities are held by the upper and middle income groups, insurance companies, charities and banks. It would therefore do no good to reduce the rates in the lower

¹⁴ p. 49.

¹⁵ p. 50.

¹⁶ pp. 35-40.

¹⁷ p. 39.

¹⁸ p. 8.

brackets because in such case these people would not trust it with corporate management but only spend it foolishly on such things as food and clothing.

The present system is therefore obviously deficient in at least two respects: (1) it levies the taxes at ". . . rates which many taxpayers regard as excessive";¹⁹ and, (2) those so excessively burdened must spend ". . . time, money, and ability . . . into the discovery of ways to ease the burden."²⁰ Parenthetically, it must be added, the devotion of the National Association of Manufacturers to the general welfare is most evident at this point. Here is an organization willing to contribute its time and money in developing technical and grass-roots support for a program of taxation devoted to the general welfare. And if the facts were available it would probably show that their present program is only an articulation of their more direct efforts to influence federal tax legislation (in the interests of the general welfare, naturally).

There are other facets of the basic tax philosophy of the NAM evident in their program. Some of these appear in the discussion of the many obvious equities in the plan which are outlined below. Only a sketch of the salient features has been attempted here. If by chance there remain skeptics who are less concerned with tax philosophy than with tax equity the last shadow of doubt should be removed by a consideration of the more outstanding basic equities of the plan.

III. THE OBVIOUS EQUITIES OF THE PLAN

Some of the more obvious equities of the program have already been mentioned. For example, the uniform manufacturers' excise tax, and those "[r]eforms affecting all taxpayers." However, the plan is so pregnant with similar equities that only five of the more important can be singled out for separate comment. These are: (1) progressive income taxation; (2) budget requirements; (3) rate reduction method; (4) tax favoritism; and (5) capital gains elimination.

Progressive Income Taxation

There is nothing uneasy about the association's position here.²¹ In their words: "Fundamentally, of course, there is no case for any progression. There is no logical and defensible reason why there should be any but one rate of tax on all income subject to tax."²² The ideology error that crept into the federal tax structure on this score is discussed in more detail below. It is sufficient here to point out the equity of such a suggestion: the treatment of all income taxpayers equally regardless of the size of their income. Further, NAM makes no attempt ". . . to justify the present individual tax starting rate of

¹⁹ p. 51. The National Association of Manufacturers, naturally.

²⁰ *Ibid.*

²¹ Cf. BLUM AND KALVERN, *THE UNEASY CASE FOR PROGRESSIVE TAXATION* (1953).

²² p. 31.

20 per cent."²³ And in view of the escape of over 50 per cent. of the total national income from income tax the only equitable and ". . . quick cure for this situation [is to] broaden the base of the tax by decreasing exemptions and dependency credits."²⁴ It must be added, that while this latter course is not "advocated" in its program, the point is made to establish that short of ". . . substantial budget reductions, reduced exemptions is the only means to a substantial lowering of the first bracket rate."²⁵ This equity, of course, raises the interesting question of the relation of the income tax to budget requirements.

Budget Requirements

This, one of the more patent equities, has already been touched upon. It was pointed out that the program postulates an annual federal budget of some \$60 billion, and that economic growth at present rates would result in some \$8.9 billion in additional revenue annually at the end of the five year period of the plan. Here then is the precise point where equity enters the picture: on the one hand, the increased revenue from economic growth will be used to reduce the rates of surtax; on the other hand, in the Association's words: ". . . [i]t would be a fine thing if all taxpayers could be promised very substantial additional relief in the years immediately ahead. This course is possible if there first should be the required budget reductions. During and after accomplishment of this plan, all further opportunities for tax reduction should be largely used in reducing the first bracket of individual tax."²⁶ A skeptic might point out that it might be desirable to spread the benefits of the some \$8.9 billion resulting from economic growth among all taxpayers. This, however, would not be equitable because it is plain that first things should come first. Therefore, an equitable apportionment of this increase in revenue would require that it be first apportioned to the upper and middle brackets, and then when budget requirements have lessened (for example, when the Soviets abandon the theories of Lenin and Stalin) the lower income groups will be entitled to rate reduction also. Few could ask for more equal treatment.

Rate Reduction Method

The method of reducing the surtax rates is pointed up here simply to show how thorough the association is in carrying out its program equitably. As shown above the plan envisages an equitable apportionment of the increased revenue from the standpoint of impact on the upper and middle income groups on the one hand and the lower income groups on the other. The same equitable thoroughness is exhibited in the plan's technique of reducing the various surtax rates. This is to ". . . be done by making a succession of five annual reductions of 16 per cent. in the progressive element of each rate bracket, comput-

²³ p. 30.

²⁴ *Ibid.*

²⁵ p. 31.

²⁶ p. 30.

ing each reduction on the original element and not on the declining balance."²⁷ That this equitable technique results in declining percentages of reduction from 62 per cent to zero does not, of course, detract from the equitable nature of this method. Sixteen per cent is sixteen per cent is sixteen per cent.

Tax Favoritism

Here is one of the most novel of tax policy expressions: "Federal taxation of all competitive enterprise should be fair and equal, and no tax favoritism should be shown any competitive group, whether it be private, corporate, cooperative, or association."²⁸ Some of the more unkind critics of the program might point out that this expression is inconsistent with the Association's espousal that the "policy of percentage depletion allowances should be continued."²⁹ They might suggest that the impact of income taxation is personal and that the real meaning of favoritism should embrace the idea of personal equality.

There are a large number of cogent reasons—all equitable in nature—for the NAM position. First, it is to be noted, and using the example of percentage depletion itself, that the statement is limited to competitive enterprise. This means that all in the oil industry, all in the sand and gravel business, all in the baby powder business should be treated equally. In short, all should be granted percentage depletion.

In the second place, contrary to some suggestions from the "lunatic fringe", percentage depletion does not constitute a federal subsidy. This is particularly true with regard to the oil industry. There is no real subsidy here. Proof of this is to be found in the fact that many of our "leaders" need the benefits flowing from percentage depletion in order to carry on a variety of charitable and educational endeavors. A good example of this is one of the oil "leaders'" sponsorship of that well-known educational institution, Facts Forum. Here is an organization devoted to the general welfare in the form of providing "free and impartial" discussion of current social issues.³⁰ And if further proof of the lack of federal subsidy is needed, it is to be found in the fact that the Defense Department and American industry need oil badly in order to keep the country free and strong.³¹

Capital Gains Elimination

The NAM plan proposes the reduction of the maximum 25 per cent rate on capital gains ". . . [p]ending the complete elimination of capital gains taxation."³² In view of the equities of the latter suggestion, and in light of the obvious benefit to the American laborer from such elimination, it is just a

²⁷ p. 27.

²⁸ p. 45.

²⁹ p. 44.

³⁰ See e. g., *McCarthy, Hunt, and Facts Forum*, 10 THE REPORTER No. 4, p. 19 (February 16, 1954).

³¹ For a thoughtful study in oil providing substantial support for the association's position see Blum, *How To Get All (but all) The Tax Advantages Of Dabbling In Oil*, 31 TAXES 343 (1953).

little difficult to understand the restraint exercised by the association in this respect. It can perhaps be explained by its constant solicitude for the federal revenue. Also, the real sting is taken out of the current proposal by suggestion that the "[e]xcess of capital losses over capital gains should be deductible" from ordinary income.

In view of the patent equities of capital gains elimination NAM perhaps felt an articulation of this point was hardly necessary. This is fully understandable. But if it lacked a full development, a permissible inference is that this policy formulation of the Board of Directors was based upon the thoughtful study of the subject conducted by Professor Blum of the University of Chicago and published in *The Tax Magazine* under the title of *The Decline and Fall of Capital Gains Taxation*.³³

The above five instances of the equities in the program are just illustrations, of course. But they indicate the tenor of the plan. It is quite clear that not all the equities favor the upper and middle income brackets; just some of them. This is as it should be, of course. Some equity for the upper brackets; some equity for the middle brackets; and some equity for the lower brackets. This is the way equity functions. But even with all this equity, the association's plan strikes a pessimistic note when it anticipates opposition to its program. This is more than just a little difficult to understand and therefore calls for a discussion of the possible nature and source of such opposition.

IV. THE OPPOSITION

The National Association of Manufacturers can hardly be characterized as a group of fuzzy-thinking visionaries. On the contrary, they have clearly, to their credit, established themselves as practical, red-blooded³⁴ political realists in many parts of their program. At many places they seem willing to sacrifice principle to expediency (with complete justification, naturally). For example, with regard to that part of the plan devoted to the manufacturers' excise tax they admit the "merit of complete coverage" but in their practical wisdom feel that food and food products, religious articles, drugs and medicines, and "chemicals bought by farmers for use in increasing or protecting food crops" should be exempt. Also, alcoholic beverages and tobacco ". . . would continue to be set apart and taxed at rates lower than at present but different from the flat rate to be levied on commodities generally."³⁵ The political wisdom here is self-evident. Not only do such exemptions line-up the farmer, food consumer, food producer and religious group, but in one fell-swoop both the "beverage" industry and the W. C. T. U. Such political astuteness should not go unrewarded.

³² p. 44.

³³ 28 TAXES 838 (1950).

³⁴ Not to be confused with red herrings, Rhode Island Reds, red "longies", The Red Sox, The Redlegs, red apples, red faces, a red face, or the Communist Party.

³⁵ p. 38.

NAM's political wisdom is also revealed in the fact that although they have established that "fundamentally, of course, there is no case for any progression" they are willing to go along on the proposition that a ". . . goal of a limited range of progression should ultimately be made permanent policy, through constitutional amendment."⁸⁶ If this appears inconsistent, politics being what they are, even the high-minded must bow to current social mores. After all ". . . business leadership has a greater responsibility now because of its unnecessary and unjustified passiveness in coping with past trends."⁸⁷

Perhaps most evident of the association's political realism is their expectation ". . . that change in the fundamental character of federal tax policy will be vigorously opposed."⁸⁸ With this opposition we are here primarily concerned. Although it could have been hoped that the plan were a bit more articulate in characterizing the opposition groups, in light of both the equitable nature of the whole program and the political astuteness in the various exceptions proposed, it is easy to understand how any wide-spread opposition would be thoroughly demoralized. Scattered resistance that may involve some mopping-up operations, however, may be felt from the following: (1) Karl Marx; (2) supporters of socialistic tax doctrine; (3) political opportunists; and, (4) surprisingly, "other leadership groups."

Karl Marx

It would only be, perhaps, pathetic, to point out that Marx is dead. But were he alive, opposition here could certainly be anticipated. And though there is no explicit reference to it, it is clear that NAM is acquainted with the *Communist Manifesto*.³⁹ A student of political history might also note a literal affinity of the five-year plan of NAM and the various five-year plans of the early Bolshevik governments. Naturally, there is here no affinity in political ideology.

Although Randolph Paul has pointed out that the idea of progressive taxation is over 3,000 years old,⁴⁰ this old history can not be taken too seriously. Everyone knows, or should know, that there is no need to go back of Karl Marx and the 19th Century. It is here, for example, that "fiscal statesmanship" reached its high water mark at the judicial level with the famous *Pollock* decision of the Supreme Court.⁴¹ From that point on, however, the association points out, the Congress of the United States has been an unwitting tool of Marxism.⁴²

⁸⁶ p. 42.

⁸⁷ p. 6.

⁸⁸ p. 5.

³⁹ *E.g.*, "Quite unintentionally, the Congress has served the purposes of Marxism by the burden imposed on the middle class—a class which, as Marx saw, was the major obstacle to his Communist program." p. 52.

⁴⁰ TAXATION IN THE UNITED STATES, 715 (1954).

⁴¹ *Pollock v. Farmers' Loan and Trust Company*, 157 U. S. 429 (1895), striking down as unconstitutional the 1894 Income Tax Act. It was in argument here that Joseph H. Choate conclusively proved that an income tax is communistic. It is difficult to understand how after this brilliant exhibition of fiscal statesmanship the people were ever induced to support the Sixteenth Amendment.

⁴² See note 39, *supra*.

It is for this reason that we must continue to cope with Marxism in the best way we know how in our federal tax policy. This demands a singling out of "those who support socialistic tax doctrine" and exposing them for what they are.

Supporters of Socialistic Tax Doctrine.

Here lies a difficult task: how to distinguish between "those who support socialistic tax doctrine"⁴³ and those who have gone along with the "present bias" because "it reflects political opportunism."⁴⁴ Of course as far as the general welfare is concerned characterization here makes no real difference. But from a combat standpoint it may make a lot of difference, and for this reason attempt will be made to classify these individuals and groups into these two categories.

The task here is made doubly difficult by the refusal of NAM to name names. At the political level, based on speeches and other public pronouncements, it seems clear that public figures like Theodore Roosevelt, Woodrow Wilson, the Robert LaFollettes, and Franklin Roosevelt would fall into the category here under consideration. Concerning the latter it must be mentioned that the association did single out one of his tax messages on the Estate Tax as being indicative of socialism in federal tax policy, and it significantly adds: ". . . that viewpoint has not been subsequently repudiated by any Congressional committee."⁴⁵

Apart from the "cynical politician" two other groups would seem to belong in the category of those who support socialistic tax doctrine: ". . . the social philosopher"⁴⁶ and the 20th Century liberal.⁴⁷ While this grouping may seem just a bit vague, the important contribution of NAM in this respect is the criteria it furnishes by which one can readily identify such supporters. These criteria sometimes take the form of, ". . . clever and beguiling phrases . . . [such as] tax relief for the greedy but not the needy . . . the trickle-down theory . . . [and] don't you *believe* in the principle of ability-to-pay?"⁴⁸

Another form of the standard by which the supporter can be recognized is to be found in any argument that focuses attention on "who should pay" rather than where the real tax issues lie: ". . . what should be paid and how."⁴⁹ The former, of course, is Marxist because it is evilly designed ". . . to set economic class against class."⁵⁰ If it should be suggested, by chance, that

⁴³ p. 7.

⁴⁴ p. 5.

⁴⁵ p. 19.

⁴⁶ p. 5. Not to be confused with economists such as Harley L. Lutz. See his address: *Federal Tax Policy In The Twentieth Century*, 1954 PROC. NAL'T TAX ASS'N. 48 (1955). It is, of course, merely a happy coincidence that Mr. Lutz is a Tax Consultant to the National Association of Manufacturers.

⁴⁷ p. 6. Not to be confused with the 19th Century liberal.

⁴⁸ pp. 5-6.

⁴⁹ p. 5.

⁵⁰ *Ibid.*

NAM itself seems unduly concerned with what classes pay what, it is only because it has been forced into a defensive position. Its real concern, as anyone can plainly see, is with the general welfare. And herein, it should be pointed out, is one of the technical niceties of the plan: the 35 per cent top bracket proposal will now put such supporters here under consideration to ". . . the burden of proving that such a top is unreasonable."⁵¹ All is fair in tax policy controversy.

A third test for purposes of identification is: anyone who twists the "principle of ability-to-pay" into an anti-Adam Smithian meaning of association with progressive taxation. This type of distortion has been one of the major influences ". . . of doctrinaire thinking and writing extending back through the turn of the century."⁵² Naturally, this criterion will readily identify anyone who thinks he has any case at all for progressive income taxation.

A final and conclusive test is found in what the association calls the "normal tactics" of describing ". . . any relief proposal as a 'loophole'".⁵³ Relief is relief is relief. As is evident in many places in the NAM plan, and in particular with those provisions "affecting all taxpayers", under no stretch of the imagination can such relief be characterized as loopholes.

Political Opportunists.

This group differs only in degree from the previous group. Here we have politicians and would-be politicians who either do not understand tax policy and theory and are simply carried along by others, or who, understanding the real issues, have feared to voice their opposition to socialistic tax doctrine because they felt the voters wanted, for example, progressive taxation.

How large is this group? This is a knotty point. It is sometimes difficult to tell what a politician is thinking when he is talking or writing. In any event, it is safe to say that, with few exceptions, this group and the doctrinaire supporters of socialistic tax theory comprise most of the members of Congress since the enactment of the Revenue Act of 1913 under the Sixteenth Amendment.⁵⁴

Other Leadership Groups

Of course, "other leadership groups", as well as the association, have never really been taken in by socialist tax philosophy. But there is ample evidence that their actions, NAM excepted, have ". . . reflected a too general belief that the public is sold on the discriminatory rate philosophy."⁵⁵ The result is that their sin in this regard has been an ". . . unnecessary and unjustified passiveness in coping with past trends", and in concentrating their ". . . efforts in the tax field on the achievement of various mitigating devices."⁵⁶

⁵¹ p. 33.

⁵² p. 5.

⁵³ p. 7.

⁵⁴ See notes 39 and 45, *supra*.

⁵⁵ p. 6.

⁵⁶ pp. 5-6.

Sin here has been very profitable. In this sense this "gadgeteering" could hardly be said to be harmful to the tax structure or the country as a whole.⁵⁷ However, the real vice here lies in the fact that when ". . . those who support socialistic tax doctrine have . . . [engaged in their normal tactics of describing such relief efforts as loopholes,] the burden of proof has rested upon the proponents of relief devices, and, because of their unwillingness to join debate on the basic issue of high rates, they have often been hard pressed to justify the specific relief proposed or enacted."⁵⁸

All of the above, however, will change as soon as these "other leadership groups" fall into line behind the militant leadership of the National Association of Manufacturers. This of course does not mean that "gadgeteering" is to cease; only the emphasis is to change. In operations mop-up debate will be joined with the supporters of socialistic tax doctrine; their motives will and "should be suspect". They will be driven to the point where they, and not the "leadership", will have the burden of proving that the present system should be retained. And, of course, the program of the National Association of Manufacturers has for all practical purposes established a conclusive presumption that no amount of proof can overcome.

V. CONCLUSION

These "fiscal statesmen" have presented such an eminently fair program for the general tax welfare that it speaks for itself. If one were permitted to snitch a "clever and beguiling" term of "those who support socialistic tax doctrine", it could be said that the association makes a perfect case for the "trickle-down" theory that underlies our economic institutions in a democratic order.⁵⁹ No red-blooded⁶⁰ American with any initiative left after April 15th could ask for more.

⁵⁷ "What is good for General Bullmoose is good for the country". Natch. See note 1, *supra*. Studies like those conducted by Professor Cary can not, therefore, be taken too seriously. See Cary, *Pressure Groups and the Revenue Codes: A Requiem in Honor of the Departing Uniformity of the Tax Law*, 68 HARV. L. REV. 745 (1955).

⁵⁸ p. 7.

⁵⁹ "What is good for General Bullmoose is good for the country". Natch. See note 1, *supra*.

⁶⁰ See note 34, *supra*.