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WHAT LAWYERS CAN DO TOWARDS ELIMINATING THE *CAUSES* OF POVERTY

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In general, all of the techniques of corporate finance, whether they involve selling equity stock for cash to those affluent enough to pay for it, the hypothecation of existing assets in order to acquire additional ones, the financing of expansion by corporations out of earnings withheld by stockholders, or from depletion, investment credit, or other sources of cash flow, or by the borrowing of money to be repaid out of future earnings, all these result in the planned expansion of productive power of existing enterprise while maintaining the concentrated ownership of enterprise in a relatively stationary stockholder class. In general, the physical productive capital of the U.S. economy (the land, structures, and machines) is ultimately owned within a class substantially smaller than the top 10% of wealth-owning families. Thus, in the functional sense, conventional finance is a system for increasing the productive power of the affluent few who already produce vastly more income than they wish to use or can use for consumption, while failing to build productive power into those with unsatisfied needs and wants, whose inadequacy as effective consumers is the constant source of social unrest and the bane of the producer and seller seeking customers.

Lawyers are key participants in the financing process. I would like here to set forth the argument for a change in corporate strategy, investment banking goals, banking goals, and legal techniques of business finance to bring about the broadening of the ownership of productive capital in the course of building a much larger economy, one capable of producing *general* rather than the *pinnacle* affluence we have today.

Argument.

"Private property," as applied to labor and capital (respectively the human and non-human physical factors of production), means that the owner is entitled to *all* the income or yield that his capital or labor produces. The worker has a right to the value of the wealth (income) his labor produces, and the owner of capital has a right to the value of the wealth (income) his capital produces.

The only way that the value of the productive input, or contribution,

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of either factor can be *objectively* determined is in reasonable free and competitive markets.

Thus, private property, in the economic area, functions precisely like circuitry in electronics: to directly connect input with out-take.

There is a law in economics (*Say's Law*) holding that in a market economy, for any given time span, the market value of the goods and services produced is *exactly equal* to the purchasing power automatically created out of the process of production.

This is simply double-entry bookkeeping in prose. One man's cost is another man's income.

Thus there is always enough purchasing power in the economy to remove all goods and services from the market.

But this does not mean that the purchasing power will be used to do so.[1]

> —Those who have more needs and desires than purchasing power clearly cannot satisfy their needs and desires, while
> —Those who have more purchasing power than needs and desires to consume obviously have no choice but to invest their excess purchasing power in capital goods, thus making the gap between their actual consumption and purchasing power ever wider.

This leads to an imbalance that we popularly call *poverty* on one side and *concentration of wealth* on the other.

There are only two correctives for this imbalance:

> (1) Redistributing the purchasing power from those who have more than enough for consumption purposes to those who have less than enough. This is the main technique used in our economy and the principal cause of social strife. It destroys private property by definition. It is inconsistent with the idea of private property.
>
> (2) Making institutional changes designed to build up the productive power of households now having too little of it to satisfy their reasonable wants and desires, while deterring households now producing more purchasing power than they can use in consumption from acquiring even more income-producing power. This corrective is consistent with the private property concept.

Thus, poverty in the private property economy can be corrected *only* by measures enabling the "poor households" to become more productive, i.e., to produce or contribute more toward the production of goods and services, and as a result, to receive higher incomes.

To say how this can be done requires understanding the nature of technological change.

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1. Until the statement of two-factor theory, economists were never able to explain why Say's Law is irrefutable on paper but unworkable in the real life economy. See TWO-FACTOR THEORY: THE ECONOMICS OF REALITY, by Louis O. Kelso and Patricia Hetter (Random House and Vintage Books, 1968).

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Technology is a process by which man harnesses nature through *his capital instruments* and puts her to work for him. It is not a process by which he *puts himself to work.*

> —Technology increases the productivity of capital instruments at an accelerating rate, and makes possible rapid increases in the *quantity* of capital instruments put into production.
> —But it leaves the productivity of labor, the human factor, generally untouched. It obsoletes at least as many skills as it calls into being, and generally many more.
> —Further, increases in unemployment lower the competitive value of the labor of those still employed.
> —Thus the effect of technology is to make capital ever more productive and plentiful, while labor's productivity is either left untouched or diminished.

The logical conclusion is that if families are to build up their productiveness from a low level to a high level, it must be through methods that enable them to buy, pay for, and employ capital ownership in their lives.

Unfortunately, neither the logic nor the need for the ownership of productive capital by the vast non-capital-owning majority is recognized in our economy. There are virtually no popularly used financing techniques that would enable people without capital ownership to buy it and pay for it out of the wealth their newly acquired capital produces, and, once paid for, to employ it in their lives as they once employed their now-inadequate labor power.

Unless financial lawyers re-examine the logic of conventional finance in the light of two-factor theory,[2] and conclude it is imperative that they encourage financing techniques which build capital ownership into men born without it, it may well be that the best hope to save the world's economies from self-destruction will be the growing use of the logic-engine to handle the accounting tasks of the monetary system. As the computer is increasingly used to record and account for economic transactions, it offers a second source of hope for delivering our economy from the destructive illogic that distorts it now.

The computer will regurgitate the illogic of a "system" that rationally builds up its industrial power to produce goods and services while leaving to chance and self-contradictory expedients the building of the economic power of people to consume those goods and services.

The computer is ideally suited to point the way toward the establishment of the only *just* economy: the private property economy in which economic out-take is directly related to productive input.

This is because, as emphasized at the beginning, private property functions in the economic order precisely like circuitry in the computer field: to directly relate input to out-take.

2. See TWO-FACTOR THEORY: THE ECONOMICS OF REALITY, by Kelso and Hetter.

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The computerization of input measurement through either capital or labor—always competitively evaluated—and of out-take in major economic transactions, will immediately demolish some of the more foolish notions we cherish just now, thus clearing the way for an economy more rational and just. Among the prevailing idiocies that the computer will bury are the ideas:

—that the productivity of labor is or ever was rising;
—that the purpose of new capital formation is to "create" jobs;
—that private property in capital can be protected in an advanced industrial economy without a rapid expansion in the proportion of households owning viable holdings of capital;
—that a valid economic goal for a free industrial society is "maximum output of goods and services with maximum employment," rather than "maximum output of goods and services with *minimum* employment;"
—that poverty is the result of *unemployment* rather than low or nonexistent productive power, i.e., being both unemployed and devoid of ownership of a viable capital holding.

Computerization will force us, if we retain any of the essential characteristics of freedom, to be just as efficient in rationally and deliberately building the power of all the people to consume, through broadening the ownership of capital, as we are in building the industrial power to produce goods and services through machines.

But lawyers should not have to wait until the computerization of the monetary system reveals that our economic "system" isn't a system at all; that it has no logic. Business lawyers, most of whom have training for thinking in system terms, can see around themselves today the evidence of defects in the economic structure: no one can question our *physical* ability to bring into existence in the American economy the power to produce a vastly greater stream of goods and services, and, quite as evidently, no one can deny that the unsatisfied needs and wants of the great majority of the population (also physical in nature) are due only to their lack of legitimate access to purchasing power. A business or financial lawyer can and should see that both the cause and cure of this defect lies in the institutional changes, for we have the physical power to satisfy physical needs and wants, but not the ability, under existing business and financial institutions, to harness that power to that task.

Some elementary facts are known:

—Most of the goods and services produced in our economy are produced by a relatively few large corporations, and the concentration of such productive power is growing. Roughly 80% of the goods and services are produced by the 1,000 largest corporations.
—In those major corporations, newly formed capital, whether

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improved land, new or improved structures, or machines, never comes into existence unless management (the group most competent to make such a decision) concludes that newly formed capital will pay for itself in a reasonably short space of time—normally three to five years. Thus, newly formed capital in well-managed businesses is inherently financeable: it pays for itself.

—Therefore, it is simply a matter of legal and financial design to connect this new capital with families and individuals who own no assets now—families who, because of high living costs, high taxes, and inadequate incomes could never acquire a significant amount of productive capital through the normal investment process. These families could, however, buy stock representing newly formed capital on credit, if they received its full income yield (the wages, if you will, of capital). After these earnings have paid for the stock, the new capitalists would be able to employ the capital as a productive force in their economic lives.

In TWO-FACTOR THEORY: THE ECONOMICS OF REALITY, Patricia Hetter and I have delineated the techniques which have been employed effectively in a number of businesses to accomplish this task. Essentially, they make possible the financing of corporate expansion on pre-tax dollars, in ways that build equity capital ownership into employees without diminishing their takehome pay or fringe benefits. At the same time, they increase the security of financing lendors, and protect against dilution of the existing stockholders' equity. It would unduly prolong this writing to repeat here the details outlined in that small book.

I am confident that when business and financial lawyers begin to focus their attention on the only possible means of eliminating the *causes* of poverty in any economy—i.e., enabling those who do not own capital legitimately to buy it and to pay for it out of what it produces—they will design a vast new array of financing tools for facilitating the building of a new "invisible structure" for our own economy and for the economies of other countries. These tools will make available to business management something it has not heretofore possessed: the techniques for building market power into those with unsatisfied needs and wants.

Such techniques can enable management of business enterprises to seize the initiative in the social revolution by making haves out of the have-nots.

The Political Dimension.

The concept of the private property free industrial economy cannot be politically classified either as conservative or liberal. On the one hand, it is conservative in insisting upon the rigid integrity of private property in the means of production. On the other hand, it is liberal in

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arguing that changes must be made in our techniques of financing new capital formation so that a rapidly increasing proportion of households will be enabled to buy viable holdings of capital equities, to pay for them out of the wealth produced by such capital without diminishing their consumer-spendable income from employment or other sources, and thereafter to employ their capital ownership as a source of income and purchasing power. It thus combines solid conservatism with intelligent liberalism (as distinguished from misguided liberalism based on attempts to distribute through employment alone the goods and services produced increasingly through productive input by physical capital—the non-human factor of production.

Financial Feasibility.

Where a substantial enterprise has average or better management, new capital formation does not take place within it unless it will, with extremely rare exceptions, produce not only its costs of formation, but dozens, hundreds, and sometimes even thousands of times the value of its costs of formation.

On the other hand, consumer goods, such as personal automobiles and family residences, produce no marketable wealth, so do not enable the owner to pay for their costs of acquisition.

Yet consumer goods financing has become so sophisticated (not to mention asinine) as to enable the consumer to spend his income up to forty years into the future to purchase today items which throw off no marketable wealth: as a result, he often pays for two houses to buy one; he pays for one and one-third autos to buy one, etc.

Productive capital in substantial and well-managed businesses is, for one who receives its full yield, *inherently* financeable. Consumer goods and services are inherently difficult to finance.

But there are no significant techniques in the world of finance to enable a household with no capital ownership, or with insufficient capital ownership, *to buy newly formed capital and to pay for it out of the wealth it produces,* and thereafter to employ such capital as a factor of production and means of producing income.

That which is inherently non-financeable is financed.

That which is inherently financeable is not financed.

And the illogic of poverty amidst eagerness and ability to produce plenty goes on.

Business lawyers of the world arise! You have nothing to lose but the general impression you are not contributing adequately to the solution of the world's most basic problem: poverty in the face of the promise of plenty.

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