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Rent Seeking Grant

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Date: 98-02-02 12:57:48 EST  
From: mgaffney@ucr.campus.mci.net (Mason Gaffney)  
To: foldvary@pobox.com  
CC: andel@auburn.campus.mci.net, barryH@vms.cis.pitt.edu, clay.berling.B898@statefarm.com, 0007404735@mcimail.com, 740-4735@mcimail.com, genovese@babson.edu, info@aier.org, tgwartney@aol.com, heaveyj@lafayette.edu, aharthimer@aol.com, hgeorge@smart.net, ntidean@vtvm1.cc.vt.edu, feder@bard.edu, cobb@jps.net, harris@fdusvt1.fdu.edu, noyessalem@juno.com

Dear Fred: Ted sent your rent-seeking article to all RSF Directors. It is a valuable addition to our Georgist literature. Since this is still unpublished, please allow me a few suggestions; and please bear in mind that I intend them to be constructive. Since all Directors have copies, I am also copying this to them, in the hope it will stir up general interest and discussion.

1. Your first major theme is well taken, that the 19th Century U.S. Fed. govt. ran a sort of continual deficit by privatizing public lands at firesale prices. However, you should moderate that by noting that the lands not yet sold kept rising in value, constituting a Haig-Simons income to the Fed. Govt. that was just as invisible to the budget accountants as the loss of lands that they privatized.

Along the same line, every acquisition of new public lands was a noncash income to the Fed. govt. at the time acquired. Even those lands whose existing Spanish or Hawaiian private titles were recognized by treaty were added to the tax base of American jurisdictions, giving U.S. state and local governmental units some equity in the lands acquired. With the rise of state and local property tax rates in the Progressive era, this equity grew, in some cases quite high. You could call this a form of revenue sharing, a Federal giveaway to local governments, but from a holistic national view it was not lost. Thus, on balance the U.S. govt. was not as totally prodigal as painted. Acquisitive, yes; prodigal, not so much.

You note on p.4 that public lands when sold did not yield Haig-Simons net income at that moment; but you should also note that all appreciation before that point had yielded such income. You just wipe out the income altogether.

2. You say that the basic structure of "mass democracy" has not changed much, 1789-1998, except for direct election of senators. You omit many things: abolition of slavery, then of Jim Crow laws and literacy tests and poll taxes; elimination of indentured servitude; elimination of debt slavery and debt imprisonment; development of large class of non-voting undocumented immigrant workers; removal of property qualifications on voting; secret ballot; initiative, referendum and recall; open Presidential primary elections; permanent registration; Baker vs. Carr and reapportionment of state legislatures; lowering voting age to 18; shortening waiting periods before registration; Jackson's putting down the nullification movement; absentee voting by mail; women's voting; Eisenhower's enforcement of integration in the south; suppression of the Ku Klux Klan; renaissance of property qualification for the franchise in Calif. water districts; and probably some others.

3. On p.2 you come close to equating "mass democracy" with national governments, but then give city political machines as a prime example. The contradiction needs reconciling, and I mean much more than waived aside or

papered over. The U.S. Constitution guarantees to each state, and subdivisions thereof, a democratic form of government. I wonder how many little tyrannies we'd have without that?

4. On p.5 you note that in 1836 land sales were 48% of Federal "income" (I think you mean gross revenues). You fail to note this was a peak year for land sales, which were highly cyclical, with a higher amplitude of variation than any other economic time series I know of. In 1838 sales were less than 5% of the 1836 level. So, you have greatly exaggerated the relative importance of land sales overall, and failed to treat their most interesting aspect, namely their instability.

5. On p.6 you note that the asking price for Federal lands dropped from \$2/acre to \$1.25, in 1820. This gives a false impression of greater affordability, when it was really the other way around. You should note two other more important factors. 1, 1819 was a peak year, so dropping the price in 1820 was a reasonable reaction to falling demand, and probably too little, too late; 2, most important, in 1820 they stopped selling on credit, a system Jefferson had introduced. Sales from 1802-20, under the credit system, were highly democratizing. They also failed to yield much revenue because of lax collections.

6. P.6, penult. para., I appreciate being cited, but I do not think the evidence you cite really supports your point. The rise of the Gini from 1910 to 1987 indicates a tendency to concentration that occurred AFTER the original grants. The point of my article was that it occurred via market forces, mostly after 1930, because property tax rates fell.

7. P.11, top, you blame "mass democracy" again for concentration, but without showing any connection between the two. In fact, it was democracy (one person, one vote) in irrigation districts that made them tax land and break up large holdings; it was anti-democracy in what are legally called "Calif. water districts" (one acre one vote) that big landowners used and use to block democracy, land taxation and subdivision. Here you have a heavy burden of proof to show democracy leading to concentration of landownership. You have not begun to meet that burden.

Highly concentrated grants of land preceding the 19th Century were products not of democracy, but of monarchy. It is not clear why you focus all the blame on democracy.

8. P.17, the middle para. contains a nonsequitur. You say, in effect, that if the Fed. gov't. had sold land subject to Fed. taxation, this would have "preserved decentralization." This seems backwards, and also defies history. A) Land was in fact privatized subject to state and local taxation, which did preserve decentralization. B) Land was privatized subject to Federal taxation, which was in fact imposed in five separate acts of Congress, the last of them in 1863. I believe that back taxes from the 1863 Act were collected for many years after Appomattox in the old Confederate states, although I've never seen a definitive study of this. C) The basic logic of your paragraph is that a stronger assertion of Federal land tax power would have preserved decentralization, which seems a non-sequitur.

9. P.18, para. 1, your proposal for indirect democracy should be tested against existing structures that resemble it. Consider the following.

A. The land outrages you describe all occurred when Senators were elected indirectly, and freedmen and women were not voting at all, and ballots were not secret so that votes were bought in the streets and employers voted their millhands, and the Fed. govt. was very small relative to state and local govt., and limited construction of the Constitution was the dominant ethic. You can not consistently intimate that direct or mass democracy was the major culprit. You could certainly maintain a thesis that direct democracy has not produced such sparkling improvements as its supporters once hoped, but that is a weaker thesis, as well as one that would require evidence from after the period you cover.

B. There are pyramidal voting structures in use in Calif. today. Best known is the Met. Water District of Southern Calif. (MWD); another is the Kings River Water Assn. (KRWA). They do not in fact operate in the utopian way your a priori reasoning suggests. MWD is a notorious empire builder, and wastrel of public funds, even though its franchise is, de facto, limited to landowners. I append a brief description.

Fragment on the Met. Water District of S.C. (MWD)  
Excerpted from M. Gaffney, 1997, "What Price Water Marketing?"  
AJES, October.

Whether one chooses taxation or regulation, we must control pumping in some manner if any system of surface control is to work. While California rations and conserves surface water, landowners in the arid San Joaquin Valley just punch more and more wells into the aquifers and pump up free water the State and Federal projects keep recharging at high cost. In the drought of 1976-77, 10,000 new wells were drilled in the San Joaquin Valley (Weatherford, p.1031). Thus they play out their destined role in The Great Water Treadmill: subsidized water supply followed by overdraft followed by State rescue projects followed by new overdrafts, etc. ad bankruptcy.

This treadmill got well started in 1913 when Los Angeles tapped the Owens Valley waters to supply free water in the San Fernando Valley. The lands there were timely prepurchased by insiders before annexation, giving a clue to the forces behind the premature seizures and diversion of water. The treadmill drill is often now labelled the "Chinatown Syndrome."

It is not just history, the treadmill keeps turning. The Metropolitan Water District of Southern California (MWD) keeps pressing for more water sources, wringing its hands over the drought, preaching domestic conservation and imposing rationing on its old customers - and annexing new desert lands to water. "It's hard for the public to understand how you can annex and talk about a water shortage," stated Lois Boylan Krieger, MWD Board Chair, as the Board approved another drought-year annexation (Metzler, 1991). It is hard indeed, and not just for the lay public. A month later she proposed making more water available for farmers in her district (Bankole, 1991). She has MWD maintain a "balancing fund" to subsidize waste by keeping prices low during droughts, and avoid peak-load pricing (Krieger, 1991).

(snip)

## Water Districts as Pocket Boroughs

The Metropolitan Water District of Southern California (MWD) is run by a Board of 50 Directors, representing 27 cities and districts that it serves. These Directors are not elected but appointed, resulting in an "old-boys' club" where some Directors sit for over 30 years. Business is conducted by committees; seniority is a ruling factor. "Not a single member of your board is elected by the people, yet you collectively assert the right to pass on statewide policy" (Governor Pat Brown to MWD Board, 1960). Half the Directors are developers or large landowners; others own engineering or construction firms, or banks that lend to them (Dennis, p.128).

How about the elected officials who appoint the Directors? Those from cities are elected on the basis of "one-person-one-vote" – well and good. However, those from several outlying districts are elected by a land-based franchise: "one-dollar one-vote." Here is the heart of anti-democracy. Sacramento has delegated the people's sovereign powers to these landowner-owned districts. Control may be completely non-resident. Representatives from landowner-owned districts remain the same from election to election, gaining seniority to dominate the 50-person Board and its ruling committees (Goodall et al., 1978, pp. 97-98. Bradley and Morales, 1981.) "At times the control of public government – in this case the water district – by private organizations may be complete." (Goodall, et al., p.98. Hall et al., Stipulation, p.7).

Thus a handful of speculative landowners, some living in other countries, have as many votes as millions of city residents. Accordingly, MWDSC preaches water conservation to the guilt-ridden middle classes in the cities while it keeps annexing new speculations, and serving new developments with artificial lakes and golf courses. They plunge ahead, heedless of five years of drought, and their own water-conservation jawboning. MWD's former Chair, the one who frets that some voters just "do not understand," was appointed a Director of MWD by the Board of the Western Municipal Water District of Riverside County, an area dominated by land speculators. Many economists have criticized MWD's persistent refusal to consider any kind of economically rational, cost-justified rate structure.

To give a notion of how this works, consider the Newhall Land Partnership. It holds 123,000 acres, mainly in Los Angeles and Ventura Counties, from Valencia and Magic Mountain west down the Santa Clara Valley of the south toward Piru and Fillmore. The Newhall family controls the public partnership, with 40% of the shares [L.A. Times, 3-86, 8-87]. The Newhalls are developing the city of Valencia, but slowly: 7,000 of its 10,000 acres remain undeveloped.

The Newhalls were early, major financial backers of the political campaigns for the 1982 Peripheral Canal bond issue to bring more northern water south. MWD was the front. The purpose of this

proposed project was to valorize speculative landholdings on the fringe of the southern megalopolis. They joined in this campaign with other large development interests: the Irvine Company, Southern California Edison, Security Pacific Bank, Rockwell, Mission Viejo (the O'Neills), Bixby Ranch, and Union Oil [L.A. Times, 1-80]. Yeager Construction Co. (highways and landholdings) led the campaign in Riverside County.

MWD solicitude for speculative landowners does not stop at its boundaries. It has a history of releasing a large part of its entitlements in California Aqueduct water to a few water districts in Kern County. It has gone along from the start with pricing policies egregiously unfavorable to its own people, to subsidize the Kern County Water Agency (Storper and Walker, 1984). This agency serves lands straddling I-5, owned by a few major oil companies in which MWD Directors have significant interests. Another huge owner is the Chandler family, whose interests include the Los Angeles Times, and the vast Tejon Ranch and (part of the) J.G. Boswell landholdings of the southern and western San Joaquin Valley (Gottlieb and Wolt, pp. 500-509; Villarejo, pp. 3-10). The Times spearheaded the Peripheral Canal campaign.

All that is not to disparage the MWD ideal. It's the practice that is faulty, and the problem is the same as with the U.S. Bureau of Reclamation: landowner domination of what should be a democratic institution. The remedies are the same as those advanced by Progressives like Hiram Johnson (R) and Woodrow Wilson (D): democratic control with professional leadership.

1. That seems so long ago as to be irrelevant, but I wouldn't despair. What destroyed Progressivism was The Cold War, which really began in 1919 with The Palmer Raids and is only now just ending. This seems a good time to pick up where The Progressives left off. The old bones are stirring. Merrill Goodall's studies have analyzed the problem. The Center for Law in the Public Interest, representing the disenfranchised citizens of Irvine, won its 1979 case forcing reform of voting in Irvine Ranch Water District. It's a matter of marshaling a few troops to win the battles of democracy. As Clarence Darrow said, "Authority is nothing more than what the rich and powerful can put over on the rest of us."

#### Ivanhoe v. McCracken, Unacclaimed Magna Carta of Water Marketing

Let us not leave this topic seeming cynical or hopeless. In 1958 the U.S. Supreme Court, under California's former Governor Earl Warren (R), stunningly reversed the trial and appellate courts, and a divided California Supreme Court, and unanimously ruled that the U.S. Bureau of Reclamation held water in its own right, not in trust for landowners of the contracting districts. If there was any implied or constructive trust, it was on another principle: "The project was designed to benefit people, not land" (Ivanhoe v. McCracken, 357 U.S. 275, 1958, 296-97). The 9(e)

contracts were valid (op cit, 299-300).

Thanks to that decision it is possible to market federal water today (Graham, 172-90). The California Supreme Court, shot down, had to eat humble pie and admit their misuse of the trust doctrine. "(I)t was established that the title of the U.S. was or can be made unlimited" (53 Cal. 2d at 716, cit. Graham 101).

Arguably, it is also the Ivanhoe decision that makes it possible to market State water. In the Burns-Porter Act of 1959, the State's answer to Ivanhoe, the State elected to use utility-type contracts on the 9(e) model (Graham, 188-90).

It is not to despair; rather, let us learn the right lesson for future guidance. Do not look to big landowners to give us free markets. The white hats were a handful of idealistic populist battlers who persevered against ridicule, libel, indifference, the press, the landed/monied establishment, and daunting odds. We've always suspected democracy depends on such die-hards; "New Resource Economists" need to learn free markets depend on them, too.

Mason Gaffney

----- Headers -----

Return-Path: <mgaffney@ucr.campus.mci.net>

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To: foldvary@pobox.com

From: mgaffney@ucr.campus.mci.net (Mason Gaffney)

Subject: Rent-seeking

Cc: andel@auburn.campus.mci.net, barryH@vms.cis.pitt.edu, clay.berling.B898@statefarm.com, 0007404735@mcimail.com, 740-4735@mcimail.com, genovese@babson.edu, info@aier.org, tgwartney@aol.com, heavyj@lafayette.edu, aharthimer@aol.com, hgeorge@smart.net, ntideman@vtvm1.cc.vt.edu, feder@bard.edu, cobb@jps.net, harris@fdusvt1.fdu.edu, noyessalem@juno.com