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## Tearing Out the Income Tax by the (Grass)Roots

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## TEARING OUT THE INCOME TAX BY THE (GRASS)ROOTS

by

Lawrence Zelenak\*

*Rich People's Movements: Grassroots Campaigns to Untax the One Percent.*

By Isaac William Martin

New York: Oxford University Press. 2013.

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### I. INTRODUCTION

Why do rich people seeking reductions in their tax burdens, who have the ability to influence Congress directly through lobbying and campaign contributions, sometimes resort to grassroots populist methods? And why do non-rich people sometimes join the rich in their anti-tax movements? These are the puzzles Isaac William Martin sets out to solve in *Rich People's Movements*.<sup>1</sup> Martin's historical research—much of it based on original sources to which scholars have previously paid little or no attention—reveals that, far from being a recent innovation, populist-style movements against progressive federal taxation go back nearly a century, to the 1920s. Although Martin identifies various anti-tax movements throughout the past century, he strikingly concludes that there has been “substantial continuity from one campaign to the next, so that, in some

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1. ISAAC WILLIAM MARTIN, *RICH PEOPLE'S MOVEMENTS: GRASSROOTS CAMPAIGNS TO UNTAX THE ONE PERCENT* (2013) [hereinafter MARTIN, *RICH PEOPLE'S MOVEMENTS*].

respects, [*Rich People's Movements* constitutes] only a single case study of one more-or-less unbroken movement tradition.”<sup>2</sup>

Based on the historical evidence, Martin suggests solutions to his two puzzles. His explanation of the first puzzle is that rich people have turned to grassroots methods when “their usual tactics [have broken] down,” and “only when they knew how, and they knew how only when they had been taught.”<sup>3</sup> The earliest anti-tax activists learned grassroots tactics from the several non-tax American social movements—suffragist, temperance, and populist—of the late-nineteenth and early-twentieth centuries; and once those tactics had been learned by the anti-tax pioneers, they were passed on to the anti-tax movements of later decades.<sup>4</sup> Ironically, one of the grassroots social movements, the tactics of which were adopted by anti-tax activists, was the progressive movement which led to the adoption of the Sixteenth Amendment and the enactment of the federal individual income tax (both in 1913).<sup>5</sup> Anti-tax campaigns waxed and waned over the decades in response to the presence or absence of tax policy threats to the rich. The crucial mobilizing threats involved not the mere existence of heavy tax burdens, but “rapid tax increases on the rich” or the prospect of such increases.<sup>6</sup>

Martin’s solution to the first of his puzzles is richly supported by his painstaking historical research. His suggested solution to the second puzzle—the existence of substantial non-rich support for rich people’s anti-tax movements—is less convincing. According to Martin, “the non-rich sympathizers . . . always had particular reasons to see top tax rates as threatening [to themselves]. . . . Many [non-rich] people . . . campaigned for tax cuts in the top brackets because they believed they were also protecting their own economic security.”<sup>7</sup> This, I think, is largely wrong. For the most part, the non-rich supporters of rich people’s movements were not motivated by a concern that the high tax rates applicable to the rich might soon also apply to them. Rather, they had two different reasons: (1) a principled belief that heavy taxes on anyone were simply wrong, even if the burdensome taxes on others were no threat to one’s self-interest, and (2) a motivation based on the post-World War II packaging of rich people’s anti-tax proposals as involving something for everyone, so that the non-rich could self-interestedly support large tax cuts for the rich as part of a package also promising (much smaller) tax cuts for themselves.<sup>8</sup>

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2. *Id.* at xiii.

3. *Id.* at 13–14.

4. *Id.* at 197.

5. *Id.* at 41–42.

6. *Id.* at 198.

7. *Id.* at 199.

8. For a brilliant exploration of this phenomenon, in the context of the so-called Bush tax cuts of 2001 and 2003, see LARRY M. BARTELS, *UNEQUAL*

The next section of this review summarizes Martin's original and compelling work in uncovering the history of a century of rich people's anti-tax movements. That is followed by sections on three shortcomings of the book—an inadequate explanation of why non-rich persons have joined in the movements, Martin's odd decision to exclude from the book's coverage two of the most important anti-tax movements of recent decades (the flat tax and the FairTax), and the scant attention paid by the book to the often-fascinating rhetoric of the anti-tax movements. Although I consider these criticisms to be considerably more than quibbles, they do not alter my view that *Rich People's Movements* is a major contribution to the scholarly literature on the history of taxation in twentieth-century America. It shines a light on a series of related movements—many of which had been nearly forgotten even by tax history scholars—which are fascinating in their own right and which have continued significance today as the predecessors of the Tea Party and other grassroots anti-tax movements of the twenty-first century.

## II. A CENTURY OF RICH PEOPLE'S ANTI-TAX MOVEMENTS

The first grassroots anti-tax movement described by Martin involved the formation during the 1920s, under the direction of anti-tax movement entrepreneur J. A. Arnold, of numerous "tax clubs" around the country (with notable concentrations in Texas and Iowa).<sup>9</sup> The goal of the clubs was a sharp reduction in the federal income tax rates applicable to the richest taxpayers. The clubs were dominated by rural bankers, whose own incomes put them nowhere near the top income tax brackets. Their objective was not the reduction of their own tax liabilities, but rather an improvement in their banks' competitive position vis-a-vis federal land banks. Mortgage-backed securities issued by the land banks paid tax-exempt interest,<sup>10</sup> whereas interest on similar securities issued by the rural banks was fully taxable. Having failed in a campaign to eliminate the land banks' ability to pay tax exempt interest,<sup>11</sup> the rural bankers changed tactics and called for a dramatic reduction in the top income tax rates. This would reduce the economic significance of the tax-exempt status of the interest paid by the land banks, which in turn would reduce the land banks' competitive advantage.<sup>12</sup> Partly as a result of the efforts of the tax clubs, the Revenue Act of 1926 cut the top individual income tax rate from 46 percent to 25 percent.<sup>13</sup>

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DEMOCRACY: THE POLITICAL ECONOMY OF THE NEW GILDED AGE 162–96 (Chapter 6, "Homer Gets a Tax Cut") (2008).

9. MARTIN, RICH PEOPLE'S MOVEMENTS, *supra* note 1, at 44–67.

10. *Id.* at 53.

11. *Id.* at 54.

12. *Id.* at 55.

13. *Id.* at 64.

Martin has rescued this fascinating episode from obscurity by some truly impressive archival research in (among other sources) the records of the clubs. The story of the tax clubs demonstrates that, half a century before the pioneering work of Stanley Surrey on tax expenditures,<sup>14</sup> Arnold and the rural bankers had a solid practical understanding of the economic effects of tax expenditures, including how the significance of an exclusion-type (or deduction-type) tax expenditure depends on the tax rate avoided by reason of the tax expenditure.

One might quibble that it is not so clear that the story of Arnold and the tax clubs belongs in a book on *rich people's* anti-tax movements. The rural bankers themselves were no more than upper-middle class (a point Martin emphasizes).<sup>15</sup> This was not a case where rich people started a movement to reduce their own taxes, and then persuaded some non-rich sympathizers to join their cause. Rather, from start to finish this was an upper-middle class movement to reduce taxes on the rich, motivated by the belief of the movement members that reduced taxes on the rich would indirectly benefit themselves.

Even if it was not, strictly speaking, a rich people's movement, the tax club movement of the 1920s laid the foundations for later rich people's anti-tax movements, by demonstrating that a grassroots movement to lower income tax rates on the rich could be effective, and by serving as a starting point for J. A. Arnold's long career in rich people's movements. Arnold also played a leading role in the grassroots effort of the late 1930s to persuade the legislatures of two-thirds of the states to call for a constitutional convention for the purpose of repealing the Sixteenth Amendment.<sup>16</sup> It was an odd sort of repeal, since the proposed replacement amendment would have reinstated the language of the repealed Sixteenth, followed by a new clause limiting the top income tax rate to 25 percent.<sup>17</sup> Apparently the rhetorical power of a call for "repeal" was thought to be sufficient to warrant labeling what was in substance a modification of the Income Tax Amendment as its repeal. An especially noteworthy contribution of Arnold to the campaign for the 25 percent limitation was the 1938 publication of *The Desire to Own*, his 151-page explanation of why "[t]he colossal mistake in the annals of this government, and one that reverberates through-out the nations of the earth, was the passage of the 16th Amendment."<sup>18</sup>

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14. STANLEY S. SURREY, *PATHWAYS TO TAX REFORM: THE CONCEPT OF TAX EXPENDITURES* (1973).

15. MARTIN, *RICH PEOPLE'S MOVEMENTS*, *supra* note 1, at 58.

16. *Id.* at 68–89.

17. *Id.* at 74.

18. J. A. ARNOLD, *THE DESIRE TO OWN* 7 (1938) [hereinafter ARNOLD, *THE DESIRE TO OWN*]. *The Desire to Own* is discussed in more detail *infra*, text accompanying notes 96–110.

Although the 25 percent campaign did not achieve its goal, it was impressively long-lived and enjoyed considerable success in the state legislatures.<sup>19</sup> By the end of 1951, the campaign needed only six more states to reach the two-thirds required for a constitutional convention.<sup>20</sup> After that, however, the movement fell into decline, partly out of concern that a convention might open a “Pandora’s box” of constitutional amendments,<sup>21</sup> and partly because the limitation movement was eclipsed by a more radical movement for the elimination of the federal income tax.<sup>22</sup>

The more radical anti-tax movement was led mostly by women—in particular, “factory owner and fashion icon”<sup>23</sup> Vivian Kellems and retired movie star (and wife of the owner of the Washington Redskins) Corinne Griffith. Martin provides a vivid account of Kellems, Griffith, and the women-led anti-tax movement of the 1950s.<sup>24</sup> A highlight is his description of the first meeting (in 1951) of Kellems’ “Liberty Belles,” a women’s organization dedicated to the abolition of the federal income tax.<sup>25</sup> (Men were welcome only in the “Liberty Boys” auxiliary<sup>26</sup>).

Martin errs, however, in his explanation of why women rose to prominence in the rich people’s anti-tax movement of the 1950s. His claim is that women were reacting to the introduction by 1948 legislation of joint income tax filing for married couples.<sup>27</sup> Relying largely on the work of Edward J. McCaffery,<sup>28</sup> Martin contends that joint filing was intended by Congress to discourage married women from working outside the home, and that women of the early 1950s understood and resented that congressional intent.

It is true that joint returns can discourage wives from working. Suppose a husband is firmly committed to the labor force and his wife is deciding between full-time homemaking and paid employment. Viewing her husband’s earnings as having fully occupied the lower income tax rate brackets of their joint return, and viewing her own earnings (if any) as

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19. MARTIN, RICH PEOPLE’S MOVEMENT, *supra* note 1, at 90–108.

20. *Id.* at 105.

21. *Id.*

22. For an excellent highly-detailed account of the campaign for the 25 percent constitutional limitation, see Marc Linder, *Eisenhower-Era Marxist-Confiscatory Taxation: Requiem for the Rhetoric of Rate Reduction for the Rich*, 70 TULANE L. REV. 905, 943–68 (1996). Linder’s work is not mentioned in *Rich People’s Movements*. There is no indication that Martin was aware of Linder’s important article.

23. MARTIN, RICH PEOPLE’S MOVEMENTS, *supra* note 1, at 110.

24. *Id.* at 110–129.

25. *Id.* at 116–17.

26. *Id.* at 117.

27. *Id.* at 118.

28. EDWARD J. MCCAFFERY, TAXING WOMEN 56–57 (1997).

stacked on top of his for income tax purposes, she may decide against paid employment because of the relatively high marginal tax rates that would apply to even her first dollars of earnings. The problem, as I have explained in more detail elsewhere, in a review of the McCaffery book on which Martin relies,<sup>29</sup> is the ahistorical nature of this analysis as applied to the late 1940s and early 1950s. Two-earner couples had not yet become a major social phenomenon. There is no evidence that Congress was even aware of the joint return stacking effect in 1948, let alone that Congress was enlisting the effect in an effort to keep married women out of the labor force. To the best of my knowledge, there is also no evidence that anyone in the women's anti-tax movement of the 1950s complained about, or was even aware of, the stacking effect. Certainly Martin offers no such evidence. The first identification of and objection to the stacking effect did not appear until 1972, in a path breaking law review article by Grace Ganz Blumberg.<sup>30</sup>

Moreover, the effect of the 1948 joint return legislation was almost always to decrease—and never to increase—the income tax liability of a married couple, compared to their combined pre-1948 tax liabilities under separate filing (this was the well-known “marriage bonus” of joint returns). This was true even in the case of the few two-earner married couples of the period. Even if wives had been aware of and opposed to the stacking effect (and, again, there is no evidence that they were), joint filing would cause them to protest only if they resented the stacking effect more than they appreciated the increase in their after-tax marital income.

The emergence of female leadership for the anti-tax movement of the early 1950s was a remarkable development, and requires an explanation. But whatever the explanation may be—perhaps some combination of the historical accident of the force of personality of Griffith and (especially) Kellems; the expertise in grassroots tactics gained by Kellems and other women from their involvement in earlier women's movements;<sup>31</sup> and an unprecedentedly large number of intelligent, well-educated, and affluent married women with time to devote to activism—Martin provides no reason to believe that the introduction of joint returns is even a small part of the explanation.

In the late 1950s and early 1960s, the women-led movement of the early 1950s was followed by the campaign for the Liberty Amendment, under the leadership of Willis (Bill) Stone.<sup>32</sup> Stone's original goal was a

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29. Lawrence Zelenak, *Tax and the Married Woman*, 70 S. CAL. L. REV. 1021, 1034–39 (1997).

30. Grace Ganz Blumberg, *Sexism in the Code: A Comparative Study of Income Taxation of Working Wives and Mothers*, 21 BUFF. L. REV. 49, 52–54 (1972).

31. MARTIN, RICH PEOPLE'S MOVEMENTS, *supra* note 1, at 110.

32. *Id.* at 141–54.

constitutional amendment prohibiting the federal government from engaging in “any business, commercial, or industrial enterprise in competition with its citizens.”<sup>33</sup> He eventually realized, however, that he could increase the support for his proposal by combining it with a constitutional prohibition of income taxation. The purported connection between the two prongs of the proposed amendment was the fanciful claim that the proceeds from the sales of government-owned businesses would be more than enough to replace the revenue lost from the repeal of the income tax.<sup>34</sup> Despite this creative packaging and a few successes in persuading state legislatures to call for a constitutional convention focused on the Liberty Amendment,<sup>35</sup> the movement never came close to achieving its ultimate goal. Nor did the movement spur Congress to enact tax cuts to stave off the adoption of the Amendment.<sup>36</sup>

As Martin’s survey of rich people’s movements reaches the more recent past, the book becomes less groundbreaking, simply because the more recent movements are—unlike the earlier movements rescued by Martin from the dustbin of history—already fairly well known. Martin furnishes engaging accounts of how the movement of the late 1970s and early 1980s for a balanced-budget-and-tax-limitation constitutional amendment gained momentum from the state-level property tax revolts of the 1970s,<sup>37</sup> and how the extremely temporary (one-year) repeal of the estate tax was caused—somewhat remotely—by a proposal for national long-term care insurance.<sup>38</sup> A number of these relatively recent developments have been described in more detail elsewhere,<sup>39</sup> but Martin provides a valuable new perspective by placing the anti-tax movements of recent decades in the context of a century of rich people’s movements.

There is, however, one significant problem with the book’s description of rich people’s movements of the past few decades—the omission of any discussion of the movements to replace the income tax with either the flat tax or the FairTax. Those neglected movements are discussed below, in Part III of this review.

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33. *Id.* at 142.

34. *Id.* at 144.

35. *Id.* at 145–49.

36. *Id.* at 149.

37. *Id.* at 155–60.

38. *Id.* at 182–94.

39. For example, Martin himself has provided a detailed account of the property tax revolts of the 1970s. ISAAC WILLIAM MARTIN, *THE PERMANENT TAX REVOLT: HOW THE PROPERTY TAX TRANSFORMED AMERICAN POLITICS* (2008). Michael Graetz and Ian Shapiro have done the same for estate tax repeal. MICHAEL J. GRAETZ & IAN SHAPIRO, *DEATH BY A THOUSAND CUTS: THE FIGHT OVER TAXING INHERITED WEALTH* (2005).



### III. EXPLAINING THE SUPPORT OF THE NON-RICH

One of the major puzzles Martin sets out to solve is the substantial support provided to rich people's movements by the non-rich. In his conclusion he offers an explanation based on self-interest:

The non-rich sympathizers . . . always had particular reasons to see top tax rates as threatening—from the farm mortgage bankers of 1924 who feared that high tax rates advantaged their competitors, to the married women of 1952 who saw that they were subject to higher marginal tax rates than their husbands, to the upper-middle-income taxpayers of 1978 who saw that inflation could push them into higher income tax brackets.<sup>40</sup>

There is an important insight here: under certain circumstances, non-rich can have strong self-interested reasons for favoring tax cuts for the richest Americans—strong enough to support a rich people's movement, or even to start one. The rural bankers' movement of the 1920s is a striking example of this phenomenon.

The other two examples offered by Martin, however, do not support his claim. As explained earlier,<sup>41</sup> there is no evidence to support Martin's claim that married women were aware of—let alone up-in-arms over—the stacking effect in 1952. But even supposing they were aware of and outraged by the effect, they would not feel threatened by the top marginal rates of the income tax unless the stacking effect put them in range of those top rates. The top marginal rate in 1952 was 92 percent.<sup>42</sup> I am not aware of any statistics on the percentage of tax returns subject to that rate in 1952, but recent work by the Tax Policy Center has provided data on the percentage of returns with income in the top bracket for the tax years 1958 through 2009 (with the exception of 1978).<sup>43</sup> In 1958, 0.3 percent of all returns—fewer than one in three hundred—were subject to a top marginal rate higher than

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40. MARTIN, RICH PEOPLE'S MOVEMENTS, *supra* note 1, at 199.

41. *Supra* text accompanying notes 27–31.

42. TAX POLICY CENTER, U.S. INDIVIDUAL INCOME TAX: PERSONAL EXEMPTIONS AND LOWEST AND HIGHEST TAX BRACKET TAX RATES AND TAX BASE FOR REGULAR TAX, TAX YEARS 1913-2013 (2013), [http://www.taxpolicycenter.org/taxfacts/content/pdf/historical\\_parameters.pdf](http://www.taxpolicycenter.org/taxfacts/content/pdf/historical_parameters.pdf) [hereinafter TAX POLICY CENTER, INDIVIDUAL INCOME TAX].

43. TAX POLICY CENTER, PERCENTAGE OF RETURNS BY THE HIGHEST APPLICABLE STATUTORY MARGINAL TAX RATE, 1958-2009 (2012), [http://www.taxpolicycenter.org/taxfacts/Content/PDF/historical\\_returns\\_by\\_smtr.pdf](http://www.taxpolicycenter.org/taxfacts/Content/PDF/historical_returns_by_smtr.pdf) [hereinafter TAX POLICY CENTER, PERCENTAGE OF RETURNS].

50 percent.<sup>44</sup> The income tax rate structure in 1958 was very similar to the 1952 rate structure (the top rate in 1958 was 91 percent),<sup>45</sup> and economic conditions in the two years were not radically different (although there was a mild recession in early 1958), so the share of returns subject to rates above 50 percent in 1952 must also have been very low. Thus, even if married women in 1952 understood and objected to the stacking effect, the only married women who would have had self-interested reasons “to see top tax rates as threatening” (with top tax rates defined expansively—in the context of a top rate of 92 percent—as rates above 50 percent) would have been those in households well within the top one percent of the income distribution—in other words, the rich.

The same basic analysis applies to Martin’s claim about 1978. Although top-bracket percentage data are not available for 1978, we do have that information for both 1977 and 1979, and the same 70 percent top rate prevailed in all three years.<sup>46</sup> Marginal rates above 50 percent applied to 0.8 percent of all returns in 1977 and to 1.0 percent of all returns in 1979.<sup>47</sup> For the approximately 99 percent of the population not subject to rates above 50 percent, there was no reason to feel threatened by the top and near-top rates. Inflationary bracket creep might push a taxpayer in, say, the 48 percent bracket, into the 50 percent or 53 percent bracket, but not into the 70 percent top bracket, or even into the brackets near or above 60 percent. Again, the only taxpayers with reason to feel threatened by the top rates were a small fraction of the top one percent of the income distribution—that is, the rich.

There are, I think, two better explanations for the non-rich support of rich people’s movements—one of which goes completely unnoticed by Martin, and the other of which he mentions only in passing. The first is the tremendous popular appeal of the attitude identified by Liam Murphy and Thomas Nagel, and labeled by them as “everyday libertarianism.”<sup>48</sup> According to Murphy and Nagel, everyday libertarianism is “an unexamined and generally nonexplicit assumption”<sup>49</sup> that people earn their pretax incomes without any assistance from the government, with the result that there is a strong presumption that it is unfair for the government to tax away any of that pretax income. Although I am persuaded by the Murphy-Nagel book-length critique of everyday libertarianism,<sup>50</sup> I suspect that everyday

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44. *Id.*

45. TAX POLICY CENTER, *INDIVIDUAL INCOME TAX*, *supra* note 42.

46. *Id.*

47. TAX POLICY CENTER, *PERCENTAGE OF RETURNS*, *supra* note 43.

48. LIAM MURPHY & THOMAS NAGEL, *THE MYTH OF OWNERSHIP* 31–37 (2002).

49. *Id.* at 36.

50. Lawrence Zelenak, *The Myth of Pretax Income*, 101 MICH. L. REV. 2261 (2003) (reviewing LIAM MURPHY, *THE MYTH OF OWNERSHIP: TAXES AND JUSTICE* (2002)).

libertarianism seems self-evidently correct to much—probably most—of the population, and has seemed so throughout the existence of the federal income tax. If so, this would provide not a self-interested, but a *principled* (even if mistaken) reason for the non-rich to support rich people's movements.

Some of the leaders of rich people's movements appealed for support from the non-rich on the basis of precisely this principled argument. The spirit of everyday libertarianism permeates Frank Chodorov's 1954 book, *The Income Tax: Root of All Evil*.<sup>51</sup> Chodorov laments:

The government says to the citizen: "Your earnings are not exclusively your own; we have a claim on them, and our claim precedes yours; we will allow you to keep some of it, because we recognize your need, not your right; but whatever we grant you is for us to decide."<sup>52</sup>

And again:

The Internal Revenue Bureau is charged with the task of enforcing an immoral law, a law that violates the principle of private property. . . . Even the doctrinaire socialist, while decrying the iniquity of private property, resents being deprived of his own; after all, the socialist is human. *It is written into our consciousness that "mine is mine," and all the tomes in support of income taxation cannot wipe out that thought.*<sup>53</sup>

Although Chodorov is more insistent and articulate on this point than most other movement leaders, similar arguments appear throughout the many decades of rich people's movements. Martin does not quote either of the above passages, or any other passages from Chodorov to similar effect, nor does he pay more than glancing attention to similar arguments from any source.<sup>54</sup> In part, this seems attributable to Martin's generally low level of interest in the intellectual history of rich people's movements, as contrasted with his much greater interest in the sociological history of the movements.

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51. FRANK CHODOROV, *THE INCOME TAX: ROOT OF ALL EVIL* (1954) [hereinafter CHODOROV, *ROOT OF ALL EVIL*].

52. *Id.* at 11.

53. *Id.* at 64 (emphasis in original).

54. Martin does mention that "rights-based rhetoric . . . was easily accessible to people without economic expertise," *id.* at 129, but he does not make the more important point that the everyday libertarian position has great intuitive appeal for many people.

Martin sees his book as a corrective to the work of other scholars of modern American conservatism, who have (in his view) paid too much attention to intellectual history, and who thus “neglect everything that made the libertarian strand of American conservatism more than just a debating society.”<sup>55</sup> Apart from the corrective explanation for his focus, Martin simply does not take the intellectual underpinnings of the movements as seriously as he takes the sociology of the movements. In his view, “the grassroots libertarian tradition is not always logically coherent, but it is *sociologically* coherent.”<sup>56</sup>

Even if he were more attuned to the movements’ ideas in general, Martin might have missed the centrality of everyday libertarianism to the movements, because he rejects everyday libertarianism without seeming to realize that he is doing so. The book’s introduction is littered with evidence of Martin’s baseline assumption about fairness in taxation, which is the exact opposite of everyday libertarianism, and which is—in Martin’s case—just as unexamined and nonexplicit as the views of the average everyday libertarian. Thus he describes rich people’s movements as “demand[ing] that government redistribute resources to the rich,”<sup>57</sup> without acknowledging or seeming to realize that Chodorov and his movement colleagues would have described themselves as demanding that government stop redistributing resources away from the rich. Similarly, Martin describes the movements as “frankly and unabashedly in favor of more income inequality,”<sup>58</sup> whereas Chodorov and colleagues would describe themselves as opposed to redistribution, rather than as in favor of income inequality *per se*. Martin asks why the rich “sometimes protest to demand even more income and wealth for themselves.”<sup>59</sup> Chodorov would respond that Martin has chosen the wrong baseline. The rich may be asking for even more after-tax income relative to current law, but relative to pre-tax income they are merely asking to be allowed to keep more of what is rightly theirs. My point is not that Martin is wrong and Chodorov right on the merits (actually, I agree with Martin on the choice-of-baseline question), but that by failing to understand Chodorov’s position Martin misses what is probably the single most important reason for the support of rich people’s movements by the non-rich.

The second better explanation for non-rich support of rich people’s movements—the one Martin does not miss completely, but mentions only in passing—is the conversion of the federal income tax from a class tax to a mass tax during World War II. In 1939, only one American in twenty paid

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55. *Id.* at 22.

56. *Id.*

57. MARTIN, RICH PEOPLE’S MOVEMENTS, *supra* note 1, at 1.

58. *Id.* at 5.

59. *Id.* at 8.

the income or was a dependent of an income taxpayer.<sup>60</sup> By the war's end, nearly three of every four Americans were covered by the income tax.<sup>61</sup> Before the war, the major rich people's movement of the 1930s had been the drive for a constitutional amendment to limit the top marginal income tax rate to 25 percent,<sup>62</sup> a movement misleadingly described by its proponents as a movement to "repeal" the Sixteenth Amendment, given that the plan was for the immediate re-adoption of the text of the Sixteenth Amendment, along with the new 25 percent limitation.<sup>63</sup> After the war, however, the movements of the 1950s had as their goal the elimination of the income tax.<sup>64</sup> What explains the difference? Martin suggests that the post-war drive for elimination was attributable to the absolutism of Vivian Kellems, which she had learned from the women's suffrage movement.<sup>65</sup> But as Martin himself points out,<sup>66</sup> J. A. Arnold had made an absolutist property-rights argument against the income tax in his 1938 book, *The Desire to Own*,<sup>67</sup> yet there had been no movement to eliminate the income tax before the war.

So why the difference in pre- and post-war movement goals? Martin suggests it may have been just a matter of Kellems having had the courage of her convictions where Arnold had not: "Unlike J. A. Arnold, Kellems followed this line of argument to its logical conclusion."<sup>68</sup> According to Martin, "The goal was no longer a millionaire's amendment. Thanks to Vivian Kellems and Corinne Griffith, it was now a proposal to abolish income taxes across the board, for rich and middle-income people alike."<sup>69</sup> But most of the "thanks" rightly goes not to Kellems and Griffith, but to the war-caused change in the scope of the income tax, from a class tax to a mass tax. Arnold and his colleagues in the pre-war movements could not have proposed to abolish income taxes "for rich and middle-income people alike," for the simple reason that before World War II the income tax did not apply to middle-income people. As an explanation for the change in goals from limitation of the income tax to its elimination, the postwar ability of the movement to appeal to the self-interest of the middle-class in abolishing the income tax looms much larger than the force of personality of Vivian Kellems and Corinne Griffith. The movements became more radical after the war not because Kellems and Griffith had more radical anti-tax ideologies

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60. LAWRENCE H. SELTZER, *THE PERSONAL EXEMPTIONS IN THE INCOME TAX* 62, tbl. 9 (1968).

61. *Id.*

62. MARTIN, *RICH PEOPLE'S MOVEMENTS*, *supra* note 1, at 68–89.

63. *Id.* at 74.

64. *Id.* at 110–54.

65. *Id.* at 126–27.

66. *Id.* at 126.

67. ARNOLD, *THE DESIRE TO OWN*, *supra* note 18.

68. MARTIN *RICH PEOPLE'S MOVEMENTS*, *supra* note 1, at 126.

69. *Id.* at 128.

than Arnold (they did not), but because the expansion of the coverage of the income tax vastly increased the percentage of the population with self-interested reasons to favor repeal.<sup>70</sup>

#### IV. BUT WHAT ABOUT THE FLAT TAX AND THE FAIRTAX?

In recent decades opponents of the federal income tax have concentrated their attacks on two features of the tax—its progressive marginal rate structure and the fact that it (sometimes<sup>71</sup>) taxes saved income as well as consumed income.<sup>72</sup> Both objections to the income tax qualify as rich people's complaints; it is only affluent taxpayers whose income is subject to the higher marginal tax rates, and it is only affluent taxpayers who have significant amounts of saved income.

Although *Rich People's Movements* appropriately emphasizes the opposition to progressive rates, one could read the book cover-to-cover and remain unaware that in recent decades a tax policy battle has raged between proponents of taxing income and proponents of taxing only consumption. Some of the consumption tax advocates are academics who approach the issue from a decidedly non-populist perspective,<sup>73</sup> and some consumption tax proponents are not easily classified as part of any rich people's movement because of their support for *progressive* consumption taxes.<sup>74</sup> But two recent

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70. Of course, a middle-class taxpayer might not support income tax repeal on self-interested grounds if she thought that it would be replaced by some other equally burdensome tax, or that the loss of tax revenues would lead to a loss of crucial government services. But with enough magical thinking those concerns could be made to disappear. Martin quotes Griffith as giving the following answer to those who asked how the federal government would replace the revenue lost from income tax repeal: "I am sure that those who ask that question are asking it in all honesty. But my answer is: we have no substitute for *waste, graft, and corruption.*" MARTIN, RICH PEOPLE'S MOVEMENTS, *supra* note 1, at 138 (emphasis in original).

71. The so-called income tax is actually a hybrid of an income tax and a consumption tax. See e.g., Edward J. McCaffery, *Tax Policy Under a Hybrid Income-Consumption Tax*, 70 TEX. L. REV. 1145 (1992) (explaining the hybrid nature of the tax); Lawrence Zelenak, *Debt-Financed Consumption and a Hybrid Income-Consumption Tax*, 64 TAX L. REV. 1 (2010) (same).

72. For a survey of recent proposals to replace the income tax with a different form of taxation that would eliminate progressive rates, taxation of saved income, or both, see Lawrence Zelenak, Article, *Will the Federal Income Tax Have a Bicentennial?*, \_\_\_ FLA. ST. U. L. REV. \_\_\_ (forthcoming 2014).

73. See, e.g., Joseph Bankman & David A. Weisbach, *The Superiority of an Ideal Consumption Tax over an Ideal Income Tax*, 38 STAN. L. REV. 1413 (2006).

74. See, e.g., EDWARD J. MCCAFFERY, FAIR NOT FLAT: HOW TO MAKE THE TAX SYSTEM BETTER AND SIMPLER (2002).

(and ongoing) movements to replace the income tax with a flat-rate consumption tax—the campaign for the Hall-Rabushka-Forbes “flat tax”<sup>75</sup> and the campaign for the “FairTax” (a national retail sales tax)<sup>76</sup>—would seem to be *the* rich people’s tax movements of the past two decades.

Bizarrely, neither the flat tax nor the FairTax is mentioned in the text of *Rich People’s Movements*. The only mention of the two proposals appears in an endnote to the book’s Introduction. The note offers a sort-of explanation for the omission of the two proposals from the book’s list of post-Sixteenth Amendment rich people’s anti-tax movements: “The list excludes twenty-first-century phenomena such as . . . the campaign for the so-called FairTax. It also excludes the grassroots ‘Flat Tax’ lobby that emerged in connection with the presidential campaign of Steve Forbes in 1996.”<sup>77</sup>

The only explanation offered for the omission of the FairTax movement is that it appeared in the wrong century, the twenty-first rather than the twentieth. There are three problems with this explanation. First, nothing could be more arbitrary than cutting off the story at the turn of the century, merely because the century had turned. While the exigencies of book publishing may require cutting off a narrative a few months—perhaps even an entire year—before the publication date, there is no reason to ignore more than a decade of highly relevant recent events because of the happenstances of the Gregorian calendar and the base ten number system.

Second, the explanation fails on its own terms, because the FairTax movement in fact began in the twentieth century. According to the movement’s website, the movement was organized in 1995, under the name Americans for Fair Taxation (AFFT), “as a 501(c)(4) nonprofit, nonpartisan grassroots organization solely dedicated to replacing the current tax system.”<sup>78</sup> By 1998, the organization had developed (with the help of, among others, Harvard economist Dale Jorgenson) its plan to replace the income tax with a 23 percent national sales tax, and to promote the proposal with a national grassroots campaign.<sup>79</sup> Co-founder Leo Linbeck, a Texas construction tycoon, told the *Wall Street Journal*, “If we don’t sign up at

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75. For the original version of the flat-tax proposal, see ROBERT E. HALL & ALVIN RABUSHKA, *THE FLAT TAX* (1985) [hereinafter HALL & RABUSHKA, *THE FLAT TAX*].

76. For the original version of the FairTax proposal and the arguments in its favor, see NEAL BOORTZ & JOHN LINDER, *THE FAIRTAX BOOK: SAYING GOODBYE TO THE INCOME TAX AND THE IRS* (2005) [hereinafter BOORTZ & LINDER, *THE FAIRTAX BOOK*].

77. MARTIN, *RICH PEOPLE’S MOVEMENTS*, *supra* note 1, at 209, n.14.

78. *About Americans for Fair Taxation*, [www.FAIRTAX.ORG](http://www.fairtax.org/site/PageServer?pagename=about), <http://www.fairtax.org/site/PageServer?pagename=about> (last visited February 11, 2014).

79. Paul A. Gigot, *Have They Got a Sales Tax for You*, *WALL ST. J.*, January 16, 1998, at A14.

least 1,000 people in every congressional district, then we've created an Edsel and not a Mustang."<sup>80</sup> It is true that the movement grew in prominence in the twenty-first century. Aided by the promotion of the FairTax in the 2005 bestseller by Neal Boortz and John Linder, *The FairTax Book*,<sup>81</sup> by 2007 AFFT claimed to have signed up more than 800,000 supporters.<sup>82</sup> On its website today, AFFT sets for itself the goal of "recruit[ing] 3,000 activists in each of the 435 congressional districts,"<sup>83</sup> and provides links to more than three dozen local FairTax clubs.<sup>84</sup>

In short, although the FairTax movement has gained momentum during the twenty-first century, it was undeniably well underway in the twentieth century, before Martin cuts off his story. And this leads to the third problem with the book's rationale for its disregard of the movement—the inconsistency between the book's exclusion of the centuries-crossing FairTax movement and the book's devotion of an entire chapter to the equally centuries-crossing movement to repeal the estate tax.<sup>85</sup> If having occurred to a significant extent in the twenty-first century was reason enough to exclude the FairTax movement from the book, it should also have been reason enough to exclude the movement to repeal the estate tax.

In the case of the flat tax, the book offers no explanation for its omission. Martin concedes the existence of a twentieth-century grassroots campaign to replace the income tax with the flat tax; in an endnote he references "the grassroots 'Flat Tax' lobby that emerged in connection with the presidential campaign of Steve Forbes in 1996."<sup>86</sup> In the same endnote, however, Martin announces that the book will not concern itself with the flat tax. This is mystifying. The flat tax<sup>87</sup> has an impressive intellectual pedigree as the brainchild of the economist Robert E. Hall and the political scientist

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80. *Id.*

81. See BOORTZ & LINDER, *THE FAIRTAX BOOK*, *supra* note 76.

82. Mark Hemingway, *Comes the FairTax—The Latest in the Push for Saner, More Effective Taxation in the United States*, NAT'L REV. ONLINE (October 8, 2007), [http://www.fairtax.org/site/PageServer?pagename=news\\_feature](http://www.fairtax.org/site/PageServer?pagename=news_feature).

83. *Making the FairTax a Reality*, WWW.FAIRTAX.ORG, <http://www.fairtax.org/site/PageServer?pagename=GetInvolved> (last visited February 11, 2014).

84. See *Local FairTax Clubs*, WWW.FAIRTAX.ORG, [http://www.fairtax.org/site/PageServer?pagename=grassroots\\_local\\_clubs](http://www.fairtax.org/site/PageServer?pagename=grassroots_local_clubs) (last visited February 11, 2014).

85. See MARTIN, RICH PEOPLE'S MOVEMENTS, *supra* note 1, at 182–94 (Chapter 8, "The Temporary Triumph of Estate Tax Repeal"). The legislation temporarily the estate tax was not enacted until 2001. *Id.* at 193.

86. *Id.* at 209, n.14.

87. The flat tax is a value-added tax bifurcated into a flat-rate business tax and a flat rate wage tax. For a more detailed explanation of the flat tax as a bifurcated value-added tax, see Lawrence Zelenak, *Flat Tax vs. VAT: Progressivity and Family Allowances*, 68 TAX NOTES (TA) 1129 (1995).



Alvin Rabushka (both of the Hoover Institution),<sup>88</sup> and an impressive political history as the proposal that briefly catapulted Steve Forbes to front-runner status in the race for the 1996 Republican presidential nomination.<sup>89</sup> More recently, the flat-tax baton has been picked up by the conservative grassroots organization FreedomWorks.<sup>90</sup> In a 2011 press release, FreedomWorks touts the flat tax as allowing individuals “to file their tax returns in five minutes on a form the size of a postcard,” and announces its intention to “engag[e] its 1.4 million limited-government grassroots volunteers across the nation to raise awareness on this issue.”<sup>91</sup> Like the FairTax, the flat tax unquestionably deserves a place of prominence in any history of post-Sixteenth Amendment anti-tax rich people’s movements. *Rich People’s Movements* is seriously incomplete by reason of its omission of these two campaigns from its historical survey.

By ignoring the FairTax and the flat tax, the book not only disregards two of the more significant anti-tax rich people’s movements in the history of the federal income tax; it also misses an opportunity to examine a central disagreement within the universe of rich people’s movements between those who would prefer to campaign for the simple abolition of hated taxes, and those who would prefer to urge the abolition of hated taxes *and their replacement* by less objectionable taxes. This disagreement involves questions of both strategy and principle. By describing in detail several of the simple abolition campaigns, including the 1950s movement typified by Corinne Griffith’s claim that the income tax could be repealed without replacement because all the revenue it raised was spent on “waste, graft, and corruption,”<sup>92</sup> and the more recent campaign to repeal the estate tax,<sup>93</sup> while ignoring the two most important repeal-and-replace movements, *Rich People’s Movements* creates the misleading impression that anti-tax rich people’s movements have always been dominated by those who favored repeal without replacement. At least in the last few decades, the truth is closer to the opposite.

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88. See HALL & RABUSHKA, *THE FLAT TAX*, *supra* note 75.

89. Front-Runner Forbes, Editorial, WALL ST. J., Feb. 29, 1996, at A18 (noting that Forbes was the front-runner in the delegate count and describing Forbes as a serious contender for the GOP nomination).

90. On its website, FreedomWorks describes itself as having “hundreds of thousands of grassroots volunteers nationwide.” *About FreedomWorks*, WWW.FREEDOMWORKS.ORG, <http://freedomworks.org/about/about-freedomworks>.

91. Jackie Bodnar, *FreedomWorks Reactions to the Current Flat Tax Debate*, WWW.FREEDOMWORKS.ORG (Oct. 26, 2011), <http://www.freedomworks.org/press-releases/freedomworks-reactions-to-the-current-flat-tax-deb>.

92. MARTIN, *RICH PEOPLE’S MOVEMENTS*, *supra* note 1, at 138.

93. *Id.* at 182–94.

V. THE RHETORIC OF RICH PEOPLE'S ANTI-TAX MOVEMENTS:  
PARANOID AND NON-PARANOID STYLES

Martin is a sociologist, and understandably his primary interest is in the sociology of the anti-tax movements, rather than in their intellectual history and rhetoric. He claims, with some merit, that his focus on the sociology of the American anti-tax right wing is justified as a corrective to other scholarship, which has focused nearly exclusively on the history of ideas rather than on the history of social movements. According to Martin, other studies of twentieth-century American economic conservatism “have told us very little about grassroots political behavior. They have focused instead on the history of libertarian or neo-liberal ideas.”<sup>94</sup> Martin also hints that it is easier to respect the anti-tax movements from a sociological perspective than from an intellectual perspective: “Like other practical traditions in American politics, the grassroots libertarian tradition is not always logically coherent, but it is *sociologically* coherent.”<sup>95</sup> All this may be true, but it is also true that *Rich People's Movements* only hints at the rhetorical richness of the books, pamphlets, and statements of the anti-tax movements. I cannot go a great deal deeper in this review, but I offer four examples—one from the late 1930s and three from the 1950s—in the hope that they will provide some sense of the extreme rhetorical styles characteristic of much of the twentieth-century history of rich people's anti-tax movements in the United States.

The earliest of these examples is J. A. Arnold's 1938 book, *The Desire to Own*.<sup>96</sup> Written in support of the proposed 25 percent constitutional limitation, the 151-page book (featuring numerous black-and-white illustrations vaguely in the style of William Blake) offers a seriously-intended but fanciful account of how lessons gleaned from the animal kingdom and the development of civilization lead inexorably to the conclusion that the Sixteenth Amendment “makes it possible for Congress to change our form of government from a democracy to an autocracy without the consent of the people.”<sup>97</sup> Starting near the very beginning, Arnold opines that “[w]hen the first life cell crawled out of the water, looked around and decided to stay on land it was the first and most momentous decision of all time.”<sup>98</sup> Sadly, the reader learns a few pages later that “[t]he greatest tragedy in the evolution of animal life was when the Whale turned back from land to water.”<sup>99</sup> What, one might ask, does this have to do with the income tax?

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94. *Id.* at 22.

95. *Id.* (emphasis in original).

96. ARNOLD, *THE DESIRE TO OWN*, *supra* note 18.

97. *Id.* at 9.

98. *Id.* at 13.

99. *Id.* at 14.

Arnold explains: “The greatest calamity in the evolution of government was when this nation adopted the 16th Amendment . . . .”<sup>100</sup>

According to Arnold, “*The Desire to Own was the most powerful thought that ever entered the mind of man.*”<sup>101</sup> The desire to own gave rise to the establishment of the right to own<sup>102</sup>—the right fatally undermined by the Sixteenth Amendment. Much of the book is devoted to “a sightseeing journey through the jungles, down the cow paths and along the highways of nations, observing the origin, growth and decay of the ‘Desire to Own’ as it influences civilization.”<sup>103</sup> On this journey, the reader is informed that “the Gorilla was the first land owner,”<sup>104</sup> and is offered lessons based on contemplation of lions, dinosaurs, antelopes, and great auks, among other creatures.<sup>105</sup>

Arnold explains that the all-important right to own is not compatible with the Sixteenth Amendment, which “opened up the gateway for misfortune and calamity to overtake us and we are now writhing in the agony of our own folly.”<sup>106</sup> Things are much worse for humans (at least those residing in the United States) than for the animals: “The birds own their nests, the foxes their dens, but no human being can own his home, his business, or his earnings and savings. Title to the purse rests with the Government.”<sup>107</sup> The only solution, of course, is the implementation of Arnold’s proposed repeal of the Sixteenth Amendment.

I hope the preceding conveys some sense of the weirdness of *The Desire to Own*. To a modern reader, whose idea of the appropriate argumentative style for a general-readership book proposing fundamental tax reform has been formed by the likes of *The Flat Tax*<sup>108</sup> and *The FairTax Book*,<sup>109</sup> *The Desire to Own* appears to belong in some parallel universe. Martin accurately describes *The Desire to Own* as “a sweeping piece of agitational propaganda written in a popular style, with big type and dramatic illustrations,”<sup>110</sup> and provides a fair summary of the book’s argument. To this reader, however, he does not fully convey just how stylistically bizarre the book really is, in its role as the centerpiece of a seriously-intended campaign for fundamental tax reform.

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100. *Id.*

101. *Id.* at 18 (emphasis in original).

102. *Id.* at 19.

103. *Id.* at 30.

104. *Id.* at 32.

105. *Id.* at 33–45.

106. *Id.* at 123.

107. *Id.* at 138.

108. HALL & RABUSHKA, *THE FLAT TAX*, *supra* note 75.

109. BOORTZ & LINDER, *THE FAIRTAX BOOK*, *supra* note 76.

110. MARTIN, *RICH PEOPLE’S MOVEMENTS*, *supra* note 1, at 84.

My three other examples all come from three men in the 1950s, working somewhat in the shadow of Corinne Griffith, Vivian Kellems, and the Liberty Belles. The first is Frank Chodorov, author of the previously-noted 1954 book, *The Income Tax: The Root of All Evil*.<sup>111</sup> In the outline of its case against the income tax, *Root of All Evil* closely resembles *The Desire to Own*. Both contend that there is a natural right to own property, and that the Sixteenth Amendment violates that right. However, the books could scarcely be more different in style. While Arnold amiably offers the reader a guided journey through Arnold's idiosyncratic versions of natural and human history, Chodorov provides a classic example of what historian Richard Hofstadter famously described in a 1963 essay as the paranoid style in American politics.<sup>112</sup>

In his essay, Hofstadter explains that the paranoid style reflects "uncommonly angry minds"; he adopts the pejorative label "because no other word adequately evokes the qualities of heated exaggeration, suspiciousness, and conspiratorial thinking that I have in mind."<sup>113</sup> The paranoid style's "central preconception" is "the existence of a vast, insidious, preternaturally effective international conspiratorial network designed to perpetrate acts of the most fiendish character."<sup>114</sup> Although Hofstadter offers examples of the paranoid style on both ends of the political spectrum, and from several centuries of European and American history, the essay's focus is on the dominance of the paranoid style on the extreme right wing in mid-twentieth century America. The members of the modern right wing, Hofstadter writes, feel that "America has been largely taken away from them and their kind, though they are determined to try to repossess it and to prevent the final destructive act of subversion."<sup>115</sup> To a practitioner of the paranoid style, the situation is always desperate: "The paranoid spokesman . . . traffics in the birth and death of whole worlds, whole political orders, whole systems of human values. He is always manning the barricades of civilization. . . . Time is forever just running out."<sup>116</sup>

With the concept of the paranoid style in mind, consider some examples of Chodorov's prose. After offering a list of the cultural woes of modern America, including the fact that "the abhorrence attached to the word 'socialism' in this country before 1913 is wearing off," Chodorov explains, "All these changes in our culture are directly traceable to the abandonment of

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111. CHODOROV, *ROOT OF ALL EVIL*, *supra* note 51.

112. RICHARD HOFSTADTER, *The Paranoid Style in American Politics*, in *THE PARANOID STYLE IN AMERICAN POLITICS AND OTHER ESSAYS* (1996) [hereinafter HOFSTADTER, *THE PARANOID STYLE*].

113. *Id.* at 3.

114. *Id.* at 14.

115. *Id.* at 23.

116. *Id.* at 29–30.

the doctrine of private property—that is, to the Sixteenth Amendment.”<sup>117</sup> In Chodorov’s view, “The income tax is not only a tax; it is an instrument that has the potentiality of destroying a society of humans.”<sup>118</sup> Taxation based on ability to pay inevitably descends into slavery: “*When all the capital in the country is in the hands of the government, then all of us must work for the government under the conditions it prescribes—and that is slavery.*”<sup>119</sup> What was the source of this pernicious income tax? Chodorov explains that it came from foreign socialists:

So, during the latter part of the nineteenth century, Americans took to the class-war doctrine recently imported by the socialists; here was a plausible cause of all of their misfortunes, a logical scapegoat for their dissatisfaction. . . . The socialists had also imported the idea of a graduated income tax. Their prophet [Karl Marx] had written that this is the ideal instrument for destroying the hated capitalistic system, and they were duty bound to promote it.<sup>120</sup>

With italics Chodorov drives home his conclusions:

*Income taxation appeals to the governing class because in its everlasting urgency for power it needs money.*

*Income taxation appeals to the mass of people because it gives expression to their envy: it salves their sense of hurt. . . .*

*So that, the sum of all the arguments for income taxation comes to political ambition and the sin of covetousness.*<sup>121</sup>

If it is not already too late to save the country, it is nearly so. For Chodorov, the income tax is “the atomic bomb that has virtually destroyed the Union.”<sup>122</sup>

The concerns expressed by Chodorov were central to mid-century American thought in the paranoid mode.<sup>123</sup> Hofstadter notes the right-wing

117. CHODOROV, *ROOT OF ALL EVIL*, *supra* note 51, at 13.

118. *Id.* at 20.

119. *Id.* at 33 (emphasis in original).

120. *Id.* at 37.

121. *Id.* at 38 (emphasis in original).

122. *Id.* at 97.

123. In one respect, however, Chodorov is not typical of the paranoid stylists of his time and place—he occasionally provides his readers with glimpses of a dry sense of humor. After relating the Old Testament story of King Rehoboam, who characterized the tax burden he imposed on his people as chastisement with scorpions, Chodorov remarks:

belief in a “sustained conspiracy . . . to undermine free capitalism, to bring the economy under the direction of the federal government, and to pave the way for socialism or communism.”<sup>124</sup> To illustrate the point, Hofstadter turns to none other than Chodorov: “Details might be open to argument among right-wingers, but many would agree with Frank Chodorov . . . that [the] campaign began with the passage of the income tax amendment to the Constitution in 1913.”<sup>125</sup>

In keeping with his generally low level of interest in rhetoric and in the history of ideas, Martin provides only a brief description of *The Root of All Evil*, which conveys virtually no sense of the book’s paranoid style (beyond what might be gleaned from the title itself).<sup>126</sup> Neither in connection with Chodorov nor anywhere else does Martin mention Hofstadter’s analysis of the paranoid style.

Martin recounts the strange story of T. Coleman Andrews, who shortly after stepping down as IRS Commissioner transformed himself into a crusader for the abolition of the income tax, and then became a third-party presidential candidate in the 1956 election.<sup>127</sup> Andrews’ road-to-Damascus conversion made him a celebrity in the anti-tax movement. As Hofstadter notes, a “recurring aspect of the paranoid style is the special significance that attaches to the figure of the renegade from the enemy cause.”<sup>128</sup> What is missing from Martin’s account is, not surprisingly, a sense of Andrews’ rhetorical style, which equals Chodorov’s in its paranoid intensity. In a very lengthy 1956 interview with *U.S. News and World Report*, Andrews urges the repeal of the income tax, although he declines the interviewer’s request to explain how the government might replace the lost revenue.<sup>129</sup> Andrews warns that soon “[t]he Government will own everything, and we’ll be forced to do the bidding of commissars imbued with the idea that they know better how to spend our money than we, and vested with the authority to do it.”<sup>130</sup> The income tax was “conceived in vengeance” against the rich, and will lead

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Whatever chastisement with scorpions may be, it is certainly not pleasant to the recipient. And that is something you might remember when an agent of the Internal Revenue Department calls you on the carpet. . . . Things could be much worse than they are; we could be chastised with scorpions.

*Id.* at 2.

124. HOFSTADTER, *THE PARANOID STYLE*, *supra* note 112, at 25.

125. *Id.*

126. *See* MARTIN, *RICH PEOPLE’S MOVEMENTS*, *supra* note 1, at 135.

127. *See id.* at 137.

128. HOFSTADTER, *THE PARANOID STYLE*, *supra* note 112, at 34.

129. *Why the Income Tax is Bad*, *Interview with T. Coleman Andrews, Former Commissioner of Internal Revenue*, *U.S. NEWS & WORLD REP.*, 62 (May 25, 1956) [hereinafter *Andrews Interview*].

130. *Id.* at 63.

“eventually to dictatorship.”<sup>131</sup> Andrews expresses his unhappiness at seeing his country “dancing to the tune of slave makers.”<sup>132</sup> “Maybe,” he muses, “we ought to see that every person who gets a tax return receives a copy of the Communist Manifesto with it so he can see what’s happening to him.”<sup>133</sup>

And then there was J. Bracken Lee, who as governor of Utah wrote a foreword for *Root of All Evil* in 1954, and in 1955 announced that he was refusing to pay his income tax. Martin sets forth all the crucial biographical facts,<sup>134</sup> and in this case even provides a taste of the rhetoric by quoting a speech in which Lee claimed that because of the income tax the federal government “to my mind amounts to a dictatorship.”<sup>135</sup> This, however, only scratches the surface of Lee’s paranoid style. In 1958, two years after he lost his bid to be reelected as governor, Lee testified before the House Ways and Means Committee on the evils of the income tax.<sup>136</sup> In his written testimony Lee reached greater rhetorical heights than even Chodorov and Andrews. A few of the more remarkable examples will suffice:

Now the income tax is exalting political cannibalism so rapidly that it has become the No. 1 instrument serving the outside enemy with its objective of murder by suicide for the United States.<sup>137</sup> But the freedoms which they won in 1789 were lost to us in the revolution of 1913—a revolution which occurred right before the eyes of people who knew so little about freedom, despite supposedly superior education, that they joined hands unwittingly with the forces arranging the funeral of freedom.<sup>138</sup>

The denial of private property implicit in the income tax expressed the essence of psychopathic socialism.<sup>139</sup>

[T]he scale of living of the American people cannot be sustained indefinitely on anything that begins and ends with hate, as does the income tax. What could epitomize so

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131. *Id.* at 64.

132. *Id.* at 72.

133. *Id.* at 64.

134. See MARTIN, RICH PEOPLE’S MOVEMENTS, *supra* note 1, at 136.

135. *Id.*

136. *Topics Pertaining to the General Revision of the Internal Revenue Code, Hearing before the H. Comm. on Ways and Means, , 85th Cong., 2d Sess., 2982 (1958) (Testimony of J. Bracken Lee).*

137. *Id.* at 2983.

138. *Id.* at 2984.

139. *Id.*

strikingly the ravages of the virus of socialism and the venom of communism?<sup>140</sup>

Something might be learned about anti-tax movements by comparing the arguments and styles of Arnold, Chodorov, Andrews, and Lee, with those of more recent opponents of the income tax. A comparison with the book-length presentations of the flat tax (by Hall and Rabushka) and the FairTax (by Boortz and Linder) is illuminating. Because *Rich People's Movements* pays little attention to rhetoric and none at all to the flat tax and the FairTax, it does not undertake such a comparison. Without attempting a comprehensive comparison here, I offer a few thoughts as to what a more careful comparative study might conclude.

Unless one counts the call for “another Declaration of Independence, this time from an unfair, costly, complicated federal income tax,”<sup>141</sup> there are no traces of the paranoid style in the Hall-Rabushka exposition of the flat tax. Instead, Hall and Rabushka offer a sober presentation of the design of the flat tax, and low-in-rhetoric arguments for its superiority over the income tax in terms of simplicity, fairness, and economic efficiency. The approach of Boortz and Linder in their book on the FairTax is somewhere between the paranoid style of the anti-tax advocates of the 1950s and the almost-technocratic style of Hall and Rabushka. On the one hand, the book begins with a long quotation in the paranoid style from T. Coleman Andrews himself, and features occasional observations along the lines of “[t]here is absolutely no limit to the government’s desire for your money,” and a reference to “the income tax . . . being molded into a more perfect weapon of class warfare.”<sup>142</sup> On the other hand, the bulk of the book adopts a straightforward approach similar to—although less sophisticated than—that of Hall and Rabushka, and the rhetorical flourishes in the paranoid-style are far less frequent and far less extravagant than those of the 1950s.

What explains the stylistic difference between the earlier anti-income-tax advocates and their successors? Hofstadter emphasizes the absolutist orientation of practitioners of the paranoid style:

Since what is at stake is always a conflict between absolute good and absolute evil, the quality needed is not a willingness to compromise but the will to fight things out to the finish. . . . This demand for unqualified victories leads to the formulation of hopelessly demanding and unrealistic

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140. *Id.* at 2985.

141. HALL & RABUSHKA, *THE FLAT TAX*, *supra* note 75, at 3.

142. BOORTZ & LINDER, *THE FAIRTAX BOOK*, *supra* note 76, at xix–xx, 10, 16.



goals, and since these goals are not even remotely attainable, failure constantly heightens the paranoid's frustration.<sup>143</sup>

The 1950s anti-tax leaders—who urged repeal of the income tax without worrying themselves over how (if it all) it might be replaced<sup>144</sup>—were paranoid (in the Hofstadter sense) not only in their rhetoric, but also in the substance of their policy proposal. The only complete victory would have been the repeal of the federal income tax without replacement. Uninterested in anything less than complete victory, the 1950s activists proposed exactly that—in blatant disregard of the fact that their goal was “not even remotely attainable.”<sup>145</sup> The paranoid rhetoric matched the paranoid substance of the proposal.

By contrast, a proposal to replace the income tax with some other less objectionable tax reflects a willingness to compromise, and an understanding that a qualified victory is preferable to the utter defeat that is the inevitable fate of a campaign to repeal the income tax without replacement. Thus the flat tax and the FairTax are not paranoid-type proposals *in substance*. It is not surprising, then, that the advocates of such non-paranoid proposals mostly eschew paranoid-style *rhetoric* in their presentations (albeit with occasional lapses in the case of Boortz and Linder).

The tension between paranoid-style and non-paranoid-style rich people's anti-tax movements is an important part of the century-long story of those movements. Had he paid more attention to rhetoric, and had he included the flat tax and the FairTax in the story, Martin might have been able to offer some important insights into why paranoid-style movements predominated in some decades and non-paranoid-style movements in others.

## VI. CONCLUSION

*Rich People's Movements* has a few significant gaps in its analysis and in its coverage, and I have suggested in this review how some of those gaps might be filled. Despite those few gaps, Martin's work deserves to be recognized as a landmark in the study of the politics of taxation in twentieth-century America. The movements he illuminates have played an important role in shaping the federal income tax. Although few of the movements fully achieved their goals, often even the less-than-fully-successful movements

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143. HOFSTADTER, *THE PARANOID STYLE*, *supra* note 112, at 31.

144. *See, e.g., Andrews Interview*, *supra* note 130, at 62. Andrews explains his refusal to discuss a replacement for the income tax: “they'd start up a great fuss over whether that particular plan made sense, and the idea of creating corrective machinery never would even get a hearing.” *Id.*

145. HOFSTADTER, *THE PARANOID STYLE*, *supra* note 112, at 31.

greatly influenced legislative outcomes to the benefit of the rich.<sup>146</sup> As Martin notes, today's Tea Party is very much in the tradition of rich people's movements,<sup>147</sup> and it seems likely that the Tea Party or successors in the same tradition will continue to be influential throughout the present century.<sup>148</sup>

Considering the practical importance of the movements (both looking backward and looking ahead), and the fascinating paradox of populism for the rich at the movements' core, it is surprising that until Martin the movements had received little scholarly attention. The century-long continuity of the movements had not been recognized, and some of the most interesting and important movements—including the rural bankers of the 1920s and the women of the 1950s—had not been merely understudied, but virtually forgotten. By recovering the histories of these almost-lost movements, Martin has made a valuable contribution to our understanding of modern tax politics in the United States.

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146. MARTIN, RICH PEOPLE'S MOVEMENTS, *supra* note 1, at 200–03.

147. *Id.* at 195–96.

148. *Id.* at 203.