

LESSONS FROM THE RECENT RESOURCE RENT TAX EXPERIENCE IN AUSTRALIA

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ABSTRACT

This paper argues that the left must be involved in tax debates and controversies to provide an alternative analysis to the neoliberalism and neoliberal Keynesianism that pervades tax discussion and expresses the interests of the ruling elite. This should be, not as part of speaking power's truth, but as part of the wider struggle against an undemocratic and exploitative system. To explore this further the paper looks at the recent experience in Australia of the Labor Government's attempts to introduce a Resource Super Profits Tax (RSPT). It argues that tax policy and tax law are a reflection of the balance of class forces and their combativeness at any time in any given society. The paper examines the changing nature of social democracy in Australia and the possibility that, in light of the Labor Government's back down over the RSPT, Labor now rules for specific sections of capital rather than capital in general. The paper argues that the left should be involved in the debates and battles over tax and tax policy as part of the wider struggle for a new society in which production is organised democratically to satisfy human need.

I INTRODUCTION

This paper argues that the left should be involved in tax debates and battles as it should be in any controversies to build a better world in the there and now and for the future. To do this the paper looks at the recent experience in Australia of the Labor Government's attempts to introduce a Resource Super Profits Tax (RSPT). It argues that tax policy and law is an outcome dependent on the level of struggle or lack of it in society. The paper looks at the nature of social democracy in Australia and raises as a possibility the argument that, in light of the Labor Government's back down over the RSPT, Labor now rules for specific sections of capital rather than capital in general. It concludes that it only through a reinvigoration of the struggle in Australia that more just tax outcomes can be won.

Part II of this paper examines the reasons why the left, broadly defined, should be interested in tax and justice. It argues that the level of political and economic struggle in a country sets the framework for what can and can't be won in terms of tax and other forms of justice. Part III examines theories of economic rent to determine the

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possible attractions such a tax might have for social democratic parties and others concerned about delivering social justice.

In Part IV the paper looks at the experience in Australia of attempts to introduce a broad resource rent tax and the role of the Labor Party as a capitalist workers' party.¹ Part V continues that discussion and suggests that the Labor Government's back down on the RSPT raises questions about the role of social democracy in Australia and the continuing viability of its traditional role of ruling in the interests of capital. In Part VI the paper concludes, based on the Australian experience, that the struggle for tax justice, in this particular case in the form of a resource rent tax, is a challenging one and can only really succeed if there is a strong mass movement pushing for change – in a nutshell struggle and change from below.²

II TAX AND JUSTICE

The left should be involved in tax debates and struggles³ to win reforms for workers but also to build the struggle for a new world.⁴ Falling somewhere between reform and revolution Martin McIvor puts the case in these terms:

The implication, I think, is that making real headway on reducing tax evasion and avoidance will be dependent on attacking these pinnacles of power and privilege from a number of directions at once, developing campaigns and institutions that can hold them to account, and redirecting our economy in ways that disperse wealth and power more widely and evenly. That would mean strengthening unions and reducing pay differentials; building up the role of cooperatives and the public sector; cleaning up politics and deepening democracy; suppressing speculation, and ensuring our financial system serves instead to support socially useful and ecologically sustainable production.⁵

We on the Left should not shy from helping to build that better world through our work and in our writing.⁶

A Tax and the Left

Depending on your political or philosophical position, it may or may not seem strange talking about tax in a symposium on justice, but the two are inextricably linked.⁷ This

¹ Rick Kuhn 'State of NSW: Labor reaps what it sows after attacking the working class' *The Conversation* (online), 23 March 2011 <<http://theconversation.edu.au/state-of-nsw-labor-reaps-what-it-sows-after-attacking-the-working-class-329>>.

² Dorothy Smith 'Making change from below' (2007) 3(2) *Socialist Studies/Études socialistes* <<http://journals.sfu.ca/sss/index.php/sss/article/view/Article/14>>.

³ Martin McIvor, 'Tax Justice: A View from the Left' (2009) 5(2) *Tax Justice Focus* 8.

⁴ See David Solnit (ed), *Globalize Liberation: How to Uproot the System and Build a Better World* (City Light Books, 2004).

⁵ Above n 3, 9.

⁶ This is not to adopt Western Marxism's prescription of intellectual thought as class struggle, or the idea of theory as praxis, but rather to recognise that without theory there can be no practice and that an audience for left-wing ideas has to be provided with anti-capitalist analysis. Of course the consequences of 'helping build this better world through our work and in our writings' are or can be a constant stream of rejection or vilification, often based on the incorrect idea that law is an area of study separate from politics and economics, themselves expressions of the capitalist mode of production. As to the totality of thought, see, eg, Cliff Slaughter, 'Marxist Theory and Class Consciousness' in Cliff Slaughter, *Marxism and the Class Struggle* (New Park Publications, 1975) <<http://www.marxists.org/reference/subject/philosophy/works/en/slaughte.htm>>.

is especially so in the minds of reformers who want to create a better, kinder capitalism or a more equitable society. As Clive Hamilton put it ‘For most thinkers of the Left, lack of justice remains the defining characteristic of modern capitalist society, and the central focus of political activity in order to achieve a better society is to overcome injustice.’⁸ That sense of a lack of justice flows into the tax arena as a cry for equity and in some cases ‘making the rich pay’. Hamilton for example describes the progressive tax system as well as the welfare state as the two great legacies of social democracy.⁹

Tax is or can be a redistributive tool for justice but the problem is it can be redistributive both up and down the wealth spectrum.¹⁰ Further it is almost passé to say that a social democratic vision of justice and equity often entails spending programs,¹¹ and those spending programs must be funded.¹² Because taxes are ‘compulsory, unrequited transfers to the general government sector’,¹³ and because many taxpayers see tax as being an extraction from their money,¹⁴ rather than what we pay for civilised society,¹⁵ the levying of tax and the rates at which it is levied are often contestable and contested. While much of this contestation occurs at the taxpayer level – evasion and avoidance activity for example¹⁶ – the battle is also fought out at the political level. Certainly in recent Australian history tax has been and continues to be an important part of the political debate. The 1993 and 1999 elections were for example fought out mainly over Coalition proposals for a consumption tax. The large recent demonstrations in Australia for and against a carbon tax,¹⁷ although not specifically framed in class terms, are arguably about which class bears the burden of climate change and in the case of the carbon tax which class or classes pay the

⁷ See, eg. Liam Murphy and Thomas Nagel *The Myth of Ownership: Taxes and Justice* (Oxford University Press, 2002).

⁸ Clive Hamilton, ‘What’s Left? The Death of Social Democracy’ in *4 Classic Quarterly Essays on Australian Politics* (Black Inc 2007) 1, 36. Hamilton in fact (at 36) thinks that ‘the defining problem of modern industrial society is not injustice but alienation, and that the central task of progressive politics is to achieve not equality, but liberation.’ I would agree, but my views of alienation and liberation are I suspect far removed from Hamilton’s.

⁹ *Ibid.*, 8. Hamilton also argues (p 9) that sustained increases in living standards have altered social conditions and rendered social democracy irrelevant. This was written before the global financial crisis of 2008 and its possible Mark II in 2011.

¹⁰ See Murphy and Nagel, above n 7.

¹¹ Alexander M Hicks *Social Democracy & Welfare Capitalism: A Century of Income Security Politics* (Cornell University Press, 1999). See also Clive Hamilton, above n 8, 8.

¹² James O’Connor *The Fiscal Crisis of the State* (St. Martin’s Press, 1973)

¹³ Peter Harper, Australian Bureau of Statistics, ‘Australian System of Government Finance Statistics: Concepts, Sources and Methods’ (Cat. No 5514.0, Australian Bureau of Statistics, September 2005).

¹⁴ See, eg. V. Braithwaite (ed), *Taxing Democracy: Understanding Tax Avoidance and Tax Evasion* (Ashgate Publishing, 2003.)

¹⁵ Justice Oliver Wendell Holmes *Compania General De Tabacos, De Filipinas v. Collector of Internal Revenue*, 275 U.S. 87, 100.

¹⁶ Braithwaite, above n 14.

¹⁷ In Sydney in early April 2011 there were pro and anti-carbon tax demonstrations each drawing around 4000 people. Miles Godfrey and Chi Tranter, ‘Thousands Demonstrate for and Against Carbon Tax’, *The Sydney Morning Herald* (online), 2 April 2011 <<http://www.smh.com.au/environment/climate-change/thousands-demonstrate-for-and-against-carbon-tax-20110402-1cs36.html>>.

immediate costs of the tax through increased prices and/or job losses.¹⁸ Certainly social demographer David Chalke told the *Herald Sun* newspaper that some people will ‘smell in this [carbon tax] something of a class war.’¹⁹ The recent intervention of unions into this debate has in fact injected an element of class into the carbon tax discussion with some union leaders rejecting the tax if it were to cost just one job.²⁰

It may seem strange to some that this paper is in part about resource rent taxes. Yet there is logic to this. For reformers with a vision of a just world, rent taxes may be the perfect solution to the crises of state funding²¹ and the welfare state under social democracy²² that decades of ‘fiscal discipline, tight monetary policy, limiting taxes on the wealthy, restraining trade unions through ‘labour market flexibility,’ divesting the state of public ownership of private enterprises, a general commitment to small government, and removing restrictions on the free flow of goods and service’²³ and a seemingly narrowing tax base have produced. They might also be an answer to the conservatives’ cry of ‘where’s the money coming from?’ In the words of Ergas, Harrison and Pincus a rent tax is ‘[a] bit like the magic pudding: the government takes its cut, but the pudding of investment and economic activity remains unaffected.’²⁴

While they meant it as a criticism, certainly in a more nuanced form that was the view, although not the wording, of Australia’s Future Tax System Review²⁵ when it argued that ‘a well-designed rent-based resource tax is less likely to distort investment and production decisions. This is because rent-based taxes do not apply to the normal rate of return to investment in projects.’²⁶ In brief taxes on economic rent tax only ‘super’ profits. These are the profits over and above the rate of return required to ensure investment in the project.²⁷ It is the taxation of ‘the excess profit or supernormal profit, and is equal to revenue less costs where costs include normal

¹⁸ John Passant, ‘Carbon Tax Will Make Working Families Pay for Problems Markets Created *The Conversation* (online) 12 July 2011 <<http://theconversation.edu.au/carbon-tax-will-make-working-families-pay-for-problems-markets-created-2242>>.

¹⁹ Shannon Deery, ‘Gillard’s Carbon Tax: It Hits Australia’s Fair Go Spirit’ *Herald Sun* (online) 12 July 2011 <<http://www.heraldsun.com.au/news/more-news/carbon-tax-puts-hazelwood-in-the-gun-peter-ryan/story-fn7x8me2-1226092711113>>.

²⁰ Ben Packham, ‘Gillard Government under Growing Pressure over Fears of Job Losses under Carbon Tax’, *The Australian* (online), 15 April 2011 <<http://www.theaustralian.com.au/national-affairs/key-union-puts-gillard-on-notice/story-fn59niix-1226039566855>>. Later events show it was a shallow threat.

²¹ James O’Connor, above n 12.

²² Clive Hamilton, above n 8, 1.

²³ Clive Hamilton, ‘The Third Way and the End of Politics?’ (2001) 2(2) *The Drawing Board: An Australian Review of Public Affairs* 89, 96.

²⁴ Henry Ergas, Mark Harrison and Jonathan Pincus, ‘Some Economics of Mining Taxation’ (2010) 29(4) *Economics Papers: A Journal of Applied Economics and Policy* 369, 369.

²⁵ Ken Henry et al, *Australia’s Future Tax System: Report to the Treasurer* (Commonwealth of Australia, 2009) (‘The Henry Tax Review’). Online at *Australia’s Future Tax System* (2010) <http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/pubs_reports.htm> (‘The Henry Tax Review’).

²⁶ *Ibid*, Part 2 *Detailed Analysis Volume 1*, 221. Online at *Chapter C: Land and Resources Tax* (2010) *Australia’s Future Tax System* <http://taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/publications/Papers/Final_Report_Part_2/chapter_c1-1.htm>.

²⁷ W.H. Wessel, ‘A Note on Economic Rent’ (1967) 57(4) *American Economic Review*, 873.

profit or a 'normal' rate of return to capital.'²⁸ Since excess profits do not influence investment decisions, the impact of any rent at a rate less than 100% is likely to be minimal.²⁹ Indeed, Treasury analysis of the Rudd Labor Government's proposed Resource Super Profits Tax, (RSPT), based on the Henry Tax Review proposals, showed the benefits of the RSPT through encouraging more exploration and the impacts of both the associated tax cuts for business and infrastructure spending would be to increase GDP by 0.7%.³⁰

While some argue that a resource rent tax is 'primarily a mechanism for fiscal stabilisation',³¹ rather than a revenue raiser in the long term, certainly in light of the sustained mining boom,³² rent taxes may offer a magic funding pudding³³ for those social democrats and others who do want to address inequality, poverty and injustice. As pointed out above, Clive Hamilton says that for most left wing thinkers' lack of justice is 'the defining characteristic of modern capitalist society.'³⁴

B Justice and the Left

Why should the left be interested in debates about justice and tax? After all, it is almost de rigueur for socialists to ask how there can be justice in a world based on 'socioeconomic injustice.'³⁵ That injustice arises from the exploitative relationship between capital and labour. The left, or sections of it, argue that surplus value comes from labour,³⁶ and that this surplus – what becomes the basis for profit, rent, interest, dividends and tax revenue – is expropriated by the tiny minority who own or control the means of production.³⁷ Without the overthrow of those social relations injustice – exploitation – is embedded at the very heart of production. Thus, in *Wages, Price and Profit*, Marx says:

To clamour for equal or even equitable retribution on the basis of the wages system is the same as to clamour for freedom on the basis of the slavery system. What you think just or

²⁸ Lindsay Hogan and Brenton Goldsworthy, 'International Mineral Taxation: Experience and Issues' in Philip Daniel, Michael Keen and Charles McPherson (eds), *The Taxation of Petroleum and Minerals: Principles, Problems and Practice* (Routledge, 2010) 135.

²⁹ Robin Broadway and Michael Keen, 'Theoretical Perspectives on Resource Design' in Philip Dean, Michael Broadway and Charles McPherson (eds), *The Taxation of Petroleum and Minerals: Principles, Problems and Practice* (Routledge, 2010) 9.

³⁰ Wayne Swan, *Treasurer's Economic Note No 21* (30 May 2010) Treasury Minister's Portal <<http://www.treasurer.gov.au/DisplayDocs.aspx?doc=economicnotes/2010/021.htm&pageID=000&min=wms&Year=&DocType=>>.

³¹ Ian McCauley 'The Price of Civilisation' (Autumn/Winter 2011) 35 *Dissent* 45.

³² *Australian Bureau of Agricultural and Resource Economics and Sciences Australian Commodities 2011* (Canberra, 2011) 127

<http://www.abares.gov.au/publications_remote_content/publication_details?fid=pe_abares99001790.xml>.

³³ John Passant, 'Economic Rent Ripe for Tax', *The Australian Financial Review*, 12 January 2011, 46.

³⁴ Hamilton, above n 8.

³⁵ Nancy Fraser, 'From Redistribution to Recognition? Dilemmas of Justice in a "Post-Socialist" Age' in Cynthia Willett (ed) *Theorizing Multiculturalism: A Guide to the Current Debate* (Blackwell, 1998) 19, 21.

³⁶ This is commonly called the labour theory of value. See, eg, Chris Harman, *Zombie Capitalism: Global Crisis and the Relevance of Marx* (Bookmarks, 2009) 28-33.

³⁷ Alex Callinicos, 'Marxism and Politics' in Adrian Leftwich (ed), *What is Politics?* (Polity Press, 2004) 53. The means of production are the machines, mines, buildings, factories and offices etc used to produce the wealth of society.

equitable is out of the question. The question is: What is necessary and unavoidable with a given system of production?³⁸

And yet, this is only a partial answer to the question of why the left should be concerned about justice. We cannot divorce justice and what can be won under the banner of justice from the society in which the demands of the exploited and oppressed arise and the level of struggle or lack of it for those demands. As Michael Lowy puts it, when seen from the perspective of the working class ‘... values like “justice” are reinterpreted: their concrete meanings differ according to the situation and interests of different classes.’³⁹ Echoing this theme in a tax context, and tying tax injustice to wider conceptions of justice Martin McIvor argues that ‘... tax evasion and avoidance must be treated not as an anomaly within a liberal democratic society, but as a symptom of an unjust, unaccountable and fundamentally unbalanced economy.’ The point is to fundamentally change that economy. As Marx and Engels argued ‘revolution [is] the driving force of history’⁴⁰ and it is through the day to day economic and political struggles that the possibility of a just world arises.⁴¹

It is the struggles of the oppressed and exploited against injustice in all its manifestations – economic, political, and social - which determine the nature of justice in any given society.

C It’s the struggle, stupid

The *struggle* for justice in the here and now is vitally important, even in the context of the capitalist system. To quote Marx and Engels: ‘The history of all hitherto existing class society is the history of class struggles.’⁴² The economic and political struggles, the struggles for better wages or the struggles against individual instances of the system’s brutality, its inherent inequity, inequality and injustice in specific cases, open up the possibility of generalising the struggle to become one against capitalism, not just the particular manifestation of political or social injustice wrong doing or economic exploitation being fought against.⁴³ That generalisation of struggle only has a chance of success if it challenges both the economic and political injustices the system is built upon.⁴⁴ This for example appears to be one of the lessons of the ongoing Egyptian revolution in 2011.⁴⁵ Removing Mubarak does not guarantee a job or justice; it does not deliver freedom and food. The struggle continues.⁴⁶

³⁸ Karl Marx *Wages, Price and Profit* (Foreign Language Press, 5th ed, 1975) 46.

³⁹ Michael Lowy, *Marx, Weber and the Critique of Capitalism* (2011) International Viewpoint <<http://www.internationalviewpoint.org/spip.php?article1106>>.

⁴⁰ Karl Marx and Friedrich Engels, *The German Ideology: Part One with selections from Part Two and Three and Supplementary Texts edited, with an Introduction by CJ Arthur* (International Publishers, 2004) 59.

⁴¹ See, eg, Paul D’Amato, ‘Lenin’s Unique Contribution to Marxism: The Birth of Bolshevism’ (2004) 33 *International Socialist Review* (online) <<http://www.isreview.org/issues/33/bolshevism.shtml>>.

⁴² Karl Marx and Frederick Engels, *The Communist Manifesto* (Chicago, Haymarket Books, 2005) 1.

⁴³ Rosa Luxemburg *The Mass Strike: with an introduction by Tony Cliff* (London Bookmarks 1968).

⁴⁴ *Ibid.*

⁴⁵ Hossam el-Hamalawy ‘The Workers, Middle Class, Military Junta and the Permanent Revolution’, 3 *Arabawy* (online), 12 February 2011 <<http://www.arabawy.org/2011/02/12/permanent-revolution/>>.

⁴⁶ Tom Bramble ‘Egyptian Socialists Debate a Way Forward for the Revolution’, *Socialist Alternative* (online) 26 May 2011,

It is in the struggle – whether it be in Egypt, or Europe or the US or Australia – that the possibility of a new world based on the democratic organisation of production to satisfy human need arises.⁴⁷ David Harvey describes this as class struggle over different perceptions of justice.⁴⁸ While that locus is within a capitalist framework, it is this contradiction which contains the possibilities of the negation of capitalism, of the negation of injustice. As Marx and Engels put it in the *Communist Manifesto*, a socialist fights ‘... for the attainment of the immediate aims, for the enforcement of the momentary interests of the working class; but in the movement of the present, they also represent and take care of the future of that movement.’⁴⁹ Translated to Australia, the lack of political and economic struggle here at the moment, in particular of a class conscious and combative working class,⁵⁰ enabled the mining companies to threaten the Labor Government with annihilation at the forthcoming elections, depose a Prime Minister and win the battle against major resource taxation reform in Australia. The fact of disclosure in that context becomes part of the wider struggle.

D The desire for a better world

Reformism, the idea that fundamental injustice can be addressed here and now, is born of the social relations between labour and capital.⁵¹ Even when there is no material base for the provision of reforms, the desire for reforms will still exist in the minds of workers as a consequence of their position in the productive process.⁵² There is a present reality, the reality of a life lived through the exploitative relationship between capital and labour, a life to keep the kids fed, the car going and the house paid off. This is a life that sells its labour power for wages,⁵³ a life that wants good human relationships, enough to pay for all of those basics like food, housing and clothing, a future for their children and longs for a good education system, decent hospitals and a public transport system that actually transports the public. The Henry Tax Review responds to this when it says:

Australians are also expecting better community living standards over time. In addition to the rising demand for health, aged care services and disability support and services, there is pressure to increase spending on child care, housing and education.⁵⁴

<http://www.sa.org.au/index.php?option=com_k2&view=item&id=6913:egyptian-socialists-debate-a-way-forward-for-the-revolution&Itemid=386&tmpl=component&print=1>.

⁴⁷ Cliff Slaughter, ‘Marxist Theory and Class Consciousness’ in his *Marxism and the Class Struggle* (New Park Publications, 1975) (online)

<<http://www.marxists.org/reference/subject/philosophy/works/en/slaughte.htm>>.

⁴⁸ David Harvey, ‘Class Relations, Social Justice and the Politics of Difference’ in Michael Keith and Steve Pile (eds), *Place and the Politics of Identity* (Routledge, 1993) 53.

⁴⁹ Marx and Engels, above n 42, 29.

⁵⁰ Tom Bramble, ‘Does the Australian Working Class Have the Power to Change Society?’ 2011(2) *Marxist Left Review* (online)

<http://marxistleftreview.org/index.php?option=com_content&view=article&id=59:does-the-australian-working-class-have-the-power-to-change-society&catid=39:number-2-autumn-2011&Itemid=78>.

⁵¹ Cliff Slaughter, above n 47.

⁵² Tony Cliff ‘The Economic Roots of Reformism’ (1957) 6(9) *Socialist Review*

<<http://www.marxists.org/archive/cliff/works/1957/06/rootsref.htm>>.

⁵³ ‘Wages therefore are only a special name for the price of labour-power ...’ Karl Marx, *Wage Labour and Capital Chapter 2* <<http://www.marxists.org/archive/marx/works/1847/wage-labour/ch02.htm>>

⁵⁴ The Henry Tax Review, above n 25, 5.

The left cannot ignore those day to day struggles, or in a time when the old mole⁵⁵ of class struggle is well and truly buried deep within the earth of the system,⁵⁶ the Left cannot stand aside from the rising demand and pressure for certain benefits, as Henry puts it,⁵⁷ for it is out of those economic and political battles that the revolutionary process can begin.⁵⁸ But it is not only the dreams of revolution that inspire the Left's support for struggles.

A fight for sexual or gender equality, for better pay, for equal pay for equal work, for refugees, in defence of jobs, against racism, for freedom of association, if successful, has the capacity to improve the lives of ordinary workers by improving their economic, social and political position under capitalism. Such improvement may be fleeting as the forces of capital reimpose their relentless logic of exploitation, competition and accumulation on human relationships, but for that moment higher pay does mean having the ability to buy steak instead of mince, equal pay for equal work does mean a new self-respect and improved economic position for women,⁵⁹ the defeat of homophobia and racism do mean better lives for gays and lesbians and for Indigenous and black people and Muslims. There is a tension then between reform and revolution and a dialectical relationship which cannot be overcome merely by wishing it were so. It is to the struggle that the left turns not only because of the material improvements struggle can provide but because it plants the seeds for a new society. To sum up, in the words of William Keach it was 'Rosa Luxemburg's great argument [JP – in Reform or Revolution?] that revolutionaries make the best fighters for reforms because they see them as coming from below and contributing to a fundamental transformation of society.'⁶⁰ Lenin captured the sentiment well when he said:

Unlike the anarchists, the Marxists recognise struggle for reforms, ie, for measures that improve the conditions of the working people without destroying the power of the ruling class. At the same time, however, the Marxists wage a most resolute struggle against the reformists, who, directly or indirectly, restrict the aims and activities of the working class to the winning of reforms. Reformism is bourgeois deception of the workers, who, despite individual improvements, will always remain wage-slaves, as long as there is the domination of capital.⁶¹

And tax, as the Australian experience shows, is a site for class struggle in the sense that it is a battle between labour and capital as to which class bears the burden of taxation, mediated through the capitalist state.⁶² That struggle is fought out at the political level in Australia today, in the realm of ideas and sometimes when filling out tax returns. When class struggle returns that will change and tax will become part of that wider struggle against an undemocratic and fundamentally unjust and exploitative system.

⁵⁵ Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte* (1852)

<<http://www.marxists.org/archive/marx/works/1852/18th-brumaire/ch07.htm>>.

⁵⁶ Rick Kuhn, *Class and Struggle in Australia* (Pearson Education Australia, 2005).

⁵⁷ The Henry Tax Review, above n 54.

⁵⁸ Luxemburg, above n 43.

⁵⁹ And their working class male loved ones.

⁶⁰ William Keach, 'Rise like Lions? Shelly and the Revolutionary Left' (1997) 75 *International Socialism* (online) <<http://pubs.socialistreviewindex.org.uk/isj75/keach.htm>>.

⁶¹ V I Lenin, 'Marxism and Reformism' in Lenin *Collected Works Volume 19* (1977) 372.

⁶² Chris Harman *Zombie Capitalism: Global Crisis and the Relevance of Marx* (2009) 113.

The as yet incomplete revolutions⁶³ in the Middle East vindicate the argument Marxists have made for 160 years that it is through struggle that people truly change their world and themselves.⁶⁴ While in Australia minor taxes like the Resource Super Profits Tax get rolled by the big miners, in Egypt a vision or possibility of a new society is developing where people run society in their interests, not those of capital.⁶⁵ Although not the focus of this paper, the developments in Egypt and the Middle East more generally offer lessons for working people in Australia concerned about justice, in particular tax justice. To paraphrase an old union saying: ‘If you don’t fight, you lose.’

III TAX, EQUITY AND ECONOMIC RENT

In Australia part of the debate about tax and justice has developed around the taxation of resource rents. To understand that debate we need to turn first to the question of what economic rent is since resource rents are but one example of economic rent.⁶⁶

A What is economic rent?

Economic rent is that return over and above the return necessary for the activity to take place.⁶⁷ The following comment from Robin Broadway and Michael Keen is a good description of economic rent, and an argument in favour of taxing it. They say:

Economic rent is the amount by which the payment received in return for some action – bringing to market a barrel of oil, for instance – exceeds the minimum required for it to be undertaken. The attraction of such rents for tax design is clear: they can be taxed at up to (just less than) 100 percent without causing any change of behaviour, providing the economist’s ideal of a non-distorting tax.⁶⁸

The Henry Tax Review echoes this and applies the general logic of economic rent to the specifics of minerals. Thus it says:

The finite supply of non-renewable resources allows their owners to earn above-normal profits (economic rents) from exploitation. Rents exist where the proceeds from the sale of resources exceed the cost of exploration and extraction, including a required rate of return to compensate factors of production (labour and capital). In most other sectors of the economy, the existence of economic rents would attract new firms, increasing supply and decreasing prices and reducing the value of the rent. However, economic rents can persist in the resource sector because of the finite supply of non-renewable resources. These rents are referred to as resource rent.⁶⁹

⁶³ Tariq Ali, ‘Who will Reshape the Arab World: Its People, or the US?’ *The Guardian* (online) 29 April 2011 <<http://www.guardian.co.uk/commentisfree/2011/apr/29/arab-politics-democracy-intervention>>.

⁶⁴ Sandra Bloodworth, ‘Marxism and the Arab Revolutions’ (2011) 2 *Marxist Left Review* 1, 1-2, and 3-4.

⁶⁵ Tariq Ali, above n 63.

⁶⁶ Adam Smith is the intellectual father of taxing economic rent. See for example Ross Garnaut and Anthony Clunies Ross, *Taxation of Mineral Rents* (1983 Clarendon Press).

⁶⁷ Wessel, above n 27 at 873.

⁶⁸ Robin Broadway and Michael Keen, ‘Theoretical Perspectives on Resource Design’ in Philip Dean, Michael Broadway and Charles McPherson (eds), *The Taxation of Petroleum and Minerals: Principles, Problems and Practice* (Routledge, 2010) 9.

⁶⁹ The Henry Tax Review, above n 26, 218.

However, as Henry recognises,⁷⁰ it is not just the minerals sector which profits from economic rents. There appears no reason in logic to limit the economic rent analysis to resources since the overriding consideration is above-normal profits. As Garnaut and Clunies Ross put it: ‘The term ‘rent’ can be applied to any profits of any kind of enterprise that exceed those whose prospect the investor would have required to induce him to invest in the enterprise.’⁷¹ For resources the reason for that above normal rate of return is, according to Henry, the finite supply of non-renewable resources.⁷² Yet monopoly or oligopoly can create the same above average rates of return⁷³ and arguably should be taxed in a similar fashion.⁷⁴ Indeed, these conditions might actually reflect something even deeper – arguably economic rent arises not from monopoly per se but from monopolised property relations, ie private property.⁷⁵ Thus Garnaut and Clunies Ross say that most discussion of economic rent talks about windfall profits, barriers to entry and transfer rents but that these terms are inadequate. For them, however, ‘... [windfall] profits do not come necessarily as a surprise.’⁷⁶ Further:

The ‘barrier to entry’ that gives rise to what might appear to be transfer rent is the institution of property rights itself. Exclusive property rights are necessary to the emergence of mineral rent in the same way as they are to land rent.⁷⁷

This is true too of business monopolies or oligopolies. Exclusive property rights are the ultimate legal expression of monopoly either expressly, through for example ownership of particular property or indirectly through the lack of competition elevating the particular property rights to a level of exclusivity or near exclusivity for as long as the monopoly exists. Thus, to summarise, the argument is that certain factors, such as monopoly or rapidly dwindling finite resources, create the conditions for rates of return over and above those rates that are necessary to attract investment into that productive process.

An example might help us understand economic rent. A Productivity Commission paper in 1998 argued that for medium (average) risk the rate of return should be in the order of 5% above the long term bond rate.⁷⁸ The current long term bond rate is just under 6%. For high risk activity, which includes mining, the Productivity Commission puts the figure at 7% above the long term bond rate,⁷⁹ the figure the Government adopted for its MRRT uplift factor. If for example the rate of return necessary to

⁷⁰ Ibid.

⁷¹ Ross Garnaut and Anthony Clunies Ross, *Taxation of Mineral Rents* (Clarendon Press, 1983) 33.

⁷² The Henry Tax Review, above n 69.

⁷³ This is at the expense of other capitalists since what is happening is a reallocation of surplus value from all sectors of capital to the monopoly and/or finite resource sectors.

⁷⁴ See, eg, apart from the Henry Tax Review, above n 69, and Garnaut and Clunies Ross, above n 71, Donald Dewey ‘Getting Straight on Monopoly and Rent: A Dissent from Wellington and Gallo’ (1994) 9 *Review of Industrial Organization* 227.

⁷⁵ An even deeper question that these debates raise is where profits come from, what produces them?

⁷⁶ Garnaut and Clunies Ross, above n 71, 34.

⁷⁷ Ibid. This wouldn’t change with nationalisation by the capitalist state since this merely replaces one rent seeker – private enterprise – with another – the capitalist state. This capitalist monopolisation – the merger of state and capital - reached its apogee in the state capitalism of the Stalinist regimes. See for example Tony Cliff, *State Capitalism in Russia* (Pluto Press, 1974).

⁷⁸ Commonwealth Competitive Neutrality Complaints Office, ‘Rate of Return Issues’ (CCNCO Research Paper, Productivity Commission, December 1998) Table 2.3 (online)

<www.pc.gov.au/__data/assets/pdf_file/0014/5414/cnror.pdf>.

⁷⁹ Ibid.

induce investment in high risk mining activity were thus 13% (6% risk free plus the 7% risk premium) and the rate of return on certain mining investment is higher than that then taxing the 'excess' return to reduce it to 13% or somewhere close to it will not impact on the investment.

A more popular example might help explain the issue. What does it take to induce a 'supermodel' to work? Linda Evangelista once told *Vogue* that 'we don't wake up for less than \$10,000 a day.' While the example is hardly scientific, for the purposes of explanation it is appropriate. If a supermodel were paid anything more than that, and they are, it is economic rent. So a government could tax almost all of that excess without affecting a supermodel's decisions to work or not work. They would still go to work even if the economic rent tax reduced the return to just \$10,000 a day.⁸⁰

IV RESOURCE RENT TAX – THE AUSTRALIAN EXPERIENCE

In this part of the paper the back down on a resource super profits tax is explained.

A Long, long ago in a land far, far away

Despite all the recent mining industry opposition to a resource rent tax, Australia has had a form of resource rent tax in place since 1988.⁸¹ According to the Department of Resources, Environment and Tourism:

The Petroleum Resource Rent Tax (PRRT) is a profit based tax which is levied on a petroleum project. PRRT is applied to the recovery of all petroleum products from Australian Government waters (including crude oil, natural gas, LPG condensate and ethane), except for petroleum products extracted from the North West Shelf project and the Joint Petroleum Development Area, and value added products such as LNG. The PRRT provides, through its key features (below), a fiscal regime that encourages the exploration and production of petroleum while ensuring an adequate return to the community.⁸²

Its key features might sound very familiar to those conversant with the current debates about resource rent taxes. The rate of PRRT is 40% of a project's resource rent profit. This is 'the project's income after all project and "other" exploration expenditures, including a compounded amount for carried forward expenditures, have been deducted from all assessable receipts.'⁸³ In addition, the PRRT is deductible against income tax. In other words the PRRT taxes profits over and above the rate of return necessary for investment to occur in the project.

⁸⁰ John Passant and John McLaren, 'The 'Henry' Review of Australia's Future Tax System: Implications for Local Government' (Working paper No 3, Australian Centre of Excellence for Local Government, University of Technology, Sydney, 2011) 20 <<http://www.acelg.org.au/news-detail.php?id=154>>.

⁸¹ *The History of the Petroleum Resources Rent Tax (PRRT)* (2011) Australian Government Department of Resources, Energy and Tourism <[http://www.ret.gov.au/resources/enhancing/taxation/prrt/Pages/TheHistoryofPetroleumResourceRentTax\(PRRT\).aspx](http://www.ret.gov.au/resources/enhancing/taxation/prrt/Pages/TheHistoryofPetroleumResourceRentTax(PRRT).aspx)>.

⁸² *Ibid.*

⁸³ *Ibid.*

The then John Howard-led Liberal Opposition and impacted sections of the mining industry were initially vehemently opposed to the PRRT.⁸⁴ John Howard even predicted the collapse of offshore exploration.⁸⁵ However, once in place, the mining industry realised the benefits of a profits based and efficient tax as opposed to a cumbersome and inefficient royalties' regime taxing production rather than profits. When elected in 1996 John Howard made some cosmetic changes but kept the tax in place. The revenue of over a billion dollars a year,⁸⁶ the fact that it is an efficient tax accepted by industry and that it '... encourages the exploration and production of petroleum while ensuring an adequate return to the community'⁸⁷ no doubt helped him decide to keep it.

B The recent past – or how Labor surrendered to the mining industry

On 2 May, 2010, the Rudd Labor Government released the Henry Tax Review and adopted its recommendation to impose a rent tax on resources, a tax the government called a Resource Super Profits Tax.⁸⁸ As the Government's announcement at the time put it, the key points were that the tax would be neutral, having little impact on investment and production decisions, that the rate would be 40% and the tax would deductible for income tax purposes.⁸⁹ State royalties would be creditable.⁹⁰ The Government was going to provide a guaranteed tax credit for all expenditure.⁹¹ But because of the likely possible major fluctuations in expenditure and hence hits on revenue, the Government decided, instead of recognising expenditure at the time it was incurred, to defer deductibility - until such time as there was an income flow - through depreciation and loss carry forward arrangements.⁹² There would then be an uplift factor to compensate for the delay.⁹³ For projects which ended without utilising all of the expenditure deductions there would be a refund. In effect the Government adopted the Clunies-Ross Garnaut version of a Brown tax, one that allows the adjusted deduction against income once income arises and not before or refunds uplifted expenditure for projects which collapse.⁹⁴

Because of the government support for investment – according to some commentary effectively leading to a quasi-nationalisation of 40% of mining projects⁹⁵ but more

⁸⁴ Craig Emerson, 'Iron-clad Case for Revamped Resources Tax' *The Australian* (online), 3 July 2010 <<http://www.theaustralian.com.au/news/opinion/iron-clad-case-for-revamped-resources-tax/story-e6frg6zo-1225887311621>>; Richard Heaney, 'The Resources Tax: Back to the Future', *The Conversation* (online), 30 March 2011 <<http://theconversation.edu.au/articles/the-resources-tax-back-to-the-future-541>>.

⁸⁵ Richard Heaney, above n 84.

⁸⁶ The PRRT collected \$1.9B in 2007-2008 and \$1.6B in 2008-2009. Heaney above n 84.

⁸⁷ Australian Government, Department of Resources, Energy and Tourism, above n 81.

⁸⁸ *The Resource Super Profits Tax: A Fair Return to the Nation* (2010) Commonwealth of Australia, Department of Education, Employment and Workplace Relations <<http://www.deewr.gov.au/Department/Documents/Files/Announcement%20document.pdf>>.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ Garnaut and Clunies Ross, above n 71; The Henry Tax Review, above n 6.

⁹⁵ Tim Colebatch, 'Resource Rent Tax Amounts to 40% Nationalisation of the Mines', *The Age* (online) 8 June 2010 <<http://www.theage.com.au/opinion/politics/resource-tax-amounts-to-40-nationalisation-of-the-mines-20100607-xqn0.html>>.

appropriately described as a joint venture in which government would bear 40% of the risk and receive 40% of the return⁹⁶ – the uplift factor was going to be the long term bond rate, currently just below 6% in Australia. The government guarantee about refunds effectively reduced the risk factor to that rate, so the Rudd Government argued.

Australia has many of the key minerals for an expanding global economy. Here is how the Government put it in its case for an RSPT:

Australia has large endowments of non-renewable resources, including the world's largest economically demonstrated reserves of brown coal, lead, mineral sands (rutile and zircon), nickel, silver, uranium and zinc; and the second largest reserves of bauxite, copper, gold and iron ore (Geoscience Australia 2009). Australia's proven oil reserves are the 26th largest in the world. Australia's natural gas reserves are the 14th largest in the world under current production rates, and could continue to be exploited for the next 65 years (BP 2009).⁹⁷

The proposed RSPT was launched against a background of increasing demand for Australian resources, driven mainly by the growth of the Chinese and Indian economies. The resource sector is booming. According to the Australian Bureau of Agricultural and Resource Economics and Sciences 'Australia's export earnings from energy and mineral commodities in 2010 were a record \$165 billion, 25% higher than in 2009.'⁹⁸ In 2006–07, 'the minerals and petroleum industries produced over 8% of Australia's GDP and accounted for 63% of Australia's merchandise export earnings.'⁹⁹ Yet, during this boom, as the Government argued, 'the effective resource charge has almost halved from an average rate of 34% in the first half of this decade to less than 14% in 2008-09, due to unresponsive royalty regimes.'¹⁰⁰ The proposed RSPT was about reclaiming some of that lost revenue under the guise of efficiency, nationalism and nation building. The nationalism relates to the claim that mineral resources belong to all Australians¹⁰¹ and the nation building relates to the use the revenue from the tax – estimated to be \$12 billion a year¹⁰² – would be put. Those uses included a cut in the company tax rate for small and then big business and increased infrastructure spending especially in the resource states and for resource projects.¹⁰³ A small amount was earmarked to increase superannuation contribution caps.¹⁰⁴

⁹⁶ Craig Emerson, above n 84.

⁹⁷ The Henry Tax Review, above n 26, 217.

⁹⁸ Australian Government, Australian Bureau of Agricultural and Resource Economics and Sciences, 'Australian Mineral Statistics 2011 December Quarter 2010' (Commonwealth of Australia Canberra 2011) 1.

⁹⁹ *About Australia: Resources Sector* (2008) Australian Government Department of Foreign Affairs and Trade <http://www.dfat.gov.au/facts/resources_sector.html>.

¹⁰⁰ Commonwealth of Australia: 'The Resource Super Profits Tax: A Fair Return to the Nation' (Canberra 2010) 24.

¹⁰¹ Colleen Ricci, 'Resource Super Profits Tax', *The Age Education Resource Centre* (online) 17 May 2010 <<http://education.theage.com.au/cmspage.php?intid=135&intversion=310>>.

¹⁰² Commonwealth of Australia, above n 88.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

The principle effect of the RSPT was to be a ‘... redistribution of more of the economic rent from the mine operator to the government’¹⁰⁵ and then to the rest of business through the proposed company tax cuts. In other words it is a redistribution of surplus value from one section of capital to all capital in Australia.¹⁰⁶ The Rudd government was proposing to take some of the surplus arising from the monopoly property relationships mining companies have over finite resources to give to other businesses in finance, manufacturing, retail and the like through general company tax cuts. The Government also tried to win over small business not just with earlier tax cuts but with accelerated depreciation concessions.¹⁰⁷ The Government further proposed to spend some of the tax revenue on improving infrastructure, mainly for the miners, so they could get their products more seamlessly to China.¹⁰⁸ It saves those businesses the costs of doing so.

The mining industry opposed the RSPT ferociously.¹⁰⁹ It launched a \$22 million advertising campaign against it.¹¹⁰ Billionaires even demonstrated in Perth against the proposed tax.¹¹¹ In response, and in the run up to an election due later in 2010, the Rudd Government tried to find a compromise. The mining industry feared not only possibly paying more tax, but being taxed on their super profits. Lurking at the back of their minds may have been another fear, the fear that if the tax were successful other countries might follow Australia’s lead and impose their own version of an RSPT. That fear may be well founded. According to Ernst and Young resource nationalism is the biggest threat to the mining industry globally and last year 25 countries increased or proposed to increase taxes on mining companies.¹¹²

This was essentially a battle between the state and mining capital over the distribution of part of the social surplus, a surplus seemingly arising from the finite nature of the resources and flowing to mining capital because of what Garnaut and Clunies Ross describe as exclusive property rights and their absolute necessity for the emergence of mineral rents.¹¹³ Mining capital won.¹¹⁴ The Labor Party deposed Kevin Rudd as Prime Minister and the new Prime Minister, Julia Gillard, and her deputy and continuing Treasurer, Wayne Swan, announced negotiations with the big three mining

¹⁰⁵ John Freebairn and John Quiggin, ‘Special Taxation of the Mining Industry’ (2010) 29 *Economic Papers: A Journal of Applied Economics and Policy* 384, 389.

¹⁰⁶ Tom Bramble and Rick Kuhn ‘When Labour is a Better Friend to Business than the Liberals’, *Socialist Alternative* (online), 27 May 2010 <http://www.sa.org.au/index.php?option=com_k2&view=item&id=4775:when-labor-is-a-better-friend-to-business-than-the-liberals&Itemid=395>.

¹⁰⁷ Commonwealth of Australia, above n 88.

¹⁰⁸ *Ibid.*

¹⁰⁹ See, eg, Matthew Stevens, ‘Xstrata stunned by Wayne Swan's committee’, *The Australian* (online), 13 May 2010 <<http://www.theaustralian.com.au/business/xstrata-stunned-by-wayne-swans-committee/story-e6frg8zx-1225865738215>>.

¹¹⁰ Mark Davis, ‘A Snip at \$22m to get Rid of PM’, *The Sydney Morning Herald* (online), 2 February 2011 <<http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html>>.

¹¹¹ Rachel Hewitt, ‘Axe the Tax, Says Protest Crowd’, *Herald Sun* (online), 10 June 2010 <<http://www.heraldsun.com.au/business/axe-the-tax-says-protest-crowd/story-e6frfh4f-1225877792392>>.

¹¹² Top of Form. Sarah-Jane Tasker ‘Resource Nationalism “Top Risk” Facing Miners’, *The Australian* (online), 8 August 2011 <<http://www.theaustralian.com.au/business/news/resource-nationalism-top-risk-facing-miners/story-e6frg906-1226110466317>>.

¹¹³ Above n 71, 34.

¹¹⁴ Heaney, above n 85.

companies to settle a compromise. The Labor Party was mindful of the fact that an election was due in the remaining months of 2010 and that the campaign against the RSPT would translate into a campaign against the party in the forthcoming elections. The mining industry was careful to couch its misinformation¹¹⁵ about the RSPT in terms that would appeal to workers and so talked in terms of jobs and investment. This disguised the reality of what was being argued over – economic rents arising from the monopoly over land and the finite nature of the resources. The jobs argument was always a furphy but it had real traction with workers, despite the efforts of some unions to rebut it. The Amalgamated Metal Workers' Union argued for example that the RSPT aimed 'to increase investment, employment and employment by changing from a flat tax to a progressive tax.'¹¹⁶ As mentioned previously Treasury analysis was that the tax and the tax cuts would add 0.7% to GDP over time a fact which would have increased employment.¹¹⁷ However such is the low level of class struggle and class consciousness in Australia and the dominance of bourgeois ideas – the ruling ideas are the ideas of the ruling class¹¹⁸ – that the misinformation struck a chord with many workers still concerned about jobs.

This is not surprising given the impact on jobs globally and in Australia that the GFC had. Australia's unemployment rate went from 4.1% in August 2008 to 5.9% in May and June 2009.¹¹⁹ It stayed around there for a few months and then began to fall so that today unemployment is 4.9%.¹²⁰ These figures do not tell the whole story. Australia has one of the highest underemployment rates in the OECD.¹²¹ This is the number of people who want to work longer hours but cannot. During the GFC there was a large increase in the number of people working, or forced to work, less hours. According to the Australian Bureau of Statistics in 'May 2010, there were 837,000 underemployed workers and 610,000 unemployed people. The underemployment rate was 7.2% compared with the [then] unemployment rate of 5.2%.¹²² For the September quarter 2010 there were 733,000 workers underemployed.¹²³ Given the levels of underemployment workers were reluctant to take action in defence of jobs and were susceptible to misinformation. This contributed to the final result. The miners won their battle against the Australian Labor Party (ALP) and its mild RSPT. Arguably the nature of social democracy in Australia is changing.

¹¹⁵ Fred Argy et al, 'Statement by 20 Leading Economists'

<<http://www.scribd.com/doc/31959942/Economists-Statement>>.

¹¹⁶ Dave Oliver, 'Australia Now Gets Half the Share of Profits from our Resources that We Got 10 Years Ago' (AMWU National Secretary pamphlet), Personal copy.

¹¹⁷ Wayne Swan, above n 30.

¹¹⁸ Karl Marx, *The German Ideology* (online)

<<http://www.marxists.org/archive/marx/works/1845/german-ideology/ch01b.htm>>.

¹¹⁹ *Global Financial Crisis Special Coverage Charts Unemployment* (2011) ABC News

<<http://www.abc.net.au/news/events/financialcrisis/charts/unemployment.htm>>.

¹²⁰ Ibid.

¹²¹ *Employment Outlook 2010 - 'How Does Australia Compare?'* (2010) Organisation for Economic Cooperation and Development (OECD) <<http://www.oecd.org/dataoecd/14/38/45603025.pdf>>.

¹²² Australian Government, Australian Bureau of Statistics, *Australian Social Trends, June 2010* (Commonwealth of Australia, 2010)

<<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features60Jun+2010>>.

¹²³ Ibid.

V SOCIAL DEMOCRACY – RULING NOW FOR CAPITALISTS RATHER THAN CAPITAL?

This part of the paper looks at the traditional role of Labor and asks if the backdown of the ALP government in Australia over resource rents indicates a fundamental change of role for Labor in power.

A A golden age of Labor?

There is a myth among Labor members and supporters that there was a golden age of Labor.¹²⁴ Every generation the supporters of the latest iteration of social democracy look back in fondness to some halcyon by-gone days, whether it be Whitlam and his moderate social program to fix 23 years of conservative rule, including infrastructure and other modernisation failures,¹²⁵ or Chifley and his oft quoted but little understood Light on the Hill speech.¹²⁶ These days the disappointments supporters have with the Gillard Labor Government, apart from entrenching a significant minority of support for the Greens,¹²⁷ have seen the myth making turn its focus to the Hawke¹²⁸ and Keating Governments¹²⁹ as epitomes of a better Labor Party in power, amid the constant search for a magic formula to reinvigorate current day Labor.¹³⁰

B A capitalist workers' party

There is a reason for this cycle of despair – the Australian Labor Party is a capitalist workers' party.¹³¹ In this context the worker component has to be understood through the prism of the trade union bureaucracy, the social group which sustains the ALP.¹³² The members of this social group are not members of the working class but depend

¹²⁴ Tom Bramble, 'A Marxist History of the Labor Party, 1. The Birth of the ALP' *Socialist Alternative* (online) May 2006 <http://www.sa.org.au/index.php?option=com_k2&view=item&id=5397:a-marxist-history-of-the-labor-party-1-the-birth-of-the-alp>.

¹²⁵ Vashti Kenway, 'The Myth of Gough Whitlam's Radicalism', *Socialist Alternative* (online), 23 September 2010 <http://www.sa.org.au/index.php?option=com_k2&view=item&id=4343:the-myth-of-gough-whitlams-radicalism&Itemid=395>.

¹²⁶ Adrian Jones 'Which Light on Which Hill?' (1993) 31 *Overland* 19; John Passant 'Rhetoric and Reality', 18 *Workers Online* (online), 18 June 1999 <http://workers.labor.net.au/18/print_index.html>.

¹²⁷ Ben Hillier, 'A Marxist Critique of the Australian Greens' (2010) 1 *Marxist Left Review* (online) <http://marxistleftreview.org/index.php?option=com_content&view=article&id=46:a-marxist-critique-of-the-australian-greens&catid=34:issue-1-spring-2010&Itemid=77>.

¹²⁸ Rick Kuhn, 'Bob Hawke: Ruling Class Hero', *Socialist Alternative* (online), 19 July 2010 <http://www.sa.org.au/index.php?option=com_k2&view=item&id=4312:bob-hawke-ruling-class-hero&Itemid=395>.

¹²⁹ Tom Bramble 'The Politics of Labor in Government', *Socialist Alternative*, December 2007 <http://www.sa.org.au/index.php?option=com_k2&view=item&id=6472:the-politics-of-labor-in-government>.

¹³⁰ The latest version of this search for the Holy Grail has been the recently released 'wise men's' review of Labor's poor 2010 election result when it managed to form a minority Government with the support of two independents and a green member of the House of Representatives, and the Greens in the Senate. The Greens hold the balance of power in the Senate from 1 July 2011. See Steve Bracks, John Faulkner, Bob Carr, *National Review 2010* (2010) <www.alp.org.au/getattachment/3cf99afc-d393-4be3-b33c.../review2010/>.

¹³¹ Tom Bramble and Rick Kuhn, *Labor's Conflict: Big Business, Workers and the Politics of Class* (Cambridge University Press, 2011) 17.

¹³² Mick Armstrong, 'Origins of the Australian Labor Party', *Socialist Alternative* (online), 2003 <www.comcen.com.au/~marcn/redflag/archive/alp.doc>.

for it on their existence.¹³³ They are bargaining agents for labour with capital over the price of labour power.¹³⁴ It is this contradiction between capital and the de-classed working class elements and through them the working class which helps explain the shifts of Labor and the internal battles ever since its inception. This attempt to reconcile the irreconcilable, through the agency of declassed elements, makes the party a capitalist workers' party¹³⁵ reinforcing the exploitative relationship as being in the material interests of the trade union bureaucracy and the political Labor group. This capitalist workers' party is in a process of constant change as its contradictions battle, adapting to the various economic and political challenges that capitalism throws up and setting the parameters for some of those challenges. All things are in motion or change and at the moment the ALP seems more capitalist than worker. Is it about to break its Hegelian strictures? No. The imbroglio over the RSPT helps us understand just where Labor is positioned in its move from capitalist workers' party to CAPITALIST workers' party, albeit one with the reminders of the working class lingering like stale odours from last night's party. These fluctuations, the unity of opposites,¹³⁶ are normal for Labor, recognising that its role is to manage capitalism even if it is a party still with indirect links to the working class through the trade union bureaucracy.¹³⁷

The RSPT would have raised in the order of at least \$12 billion over two years,¹³⁸ although the Treasurer later conceded this could have been as high as \$24 billion a year.¹³⁹ The MRRT was estimated at the time to bring in over \$10 billion.¹⁴⁰ Later Treasury figures tell a very different story and estimate the difference in collections between the two taxes would have been much greater – about \$100 billion over ten years or on average \$10 billion a year.¹⁴¹ The estimated extra \$10 billion a year on average from the RSPT would have helped wipe out the Budget deficit and fund extra spending on public health, education, transport and renewable energy, or deliver a big company tax cut, depending on the Labor Government priorities. Instead the Gillard Labor Government backed down on the RSPT and developed an even milder tax on resources, the MRRT. The Government warned of a horror Budget¹⁴² and the Prime

¹³³ Bramble and Kuhn, above n 131, 18-19.

¹³⁴ Tom Bramble, 'Managers of Discontent: Problems with Labour Leadership', in Rick Kuhn and Tom O'Lincoln (eds), *Class and Class Conflict in Australia* (Longman Australia, 1996).

¹³⁵ Bramble and Kuhn, above n 131.

¹³⁶ Noel Pearson, 'Failed Party in Search of a Purpose', *The Australian* (online), 4 September 2010 <<http://www.theaustralian.com.au/news/opinion/failed-party-in-search-of-a-purpose/story-e6frg6zo-1225914025908>>.

¹³⁷ Diane Fieldes, 'NSW Labor Learns Nothing', *Socialist Alternative* (online), 28 March 2011 <http://www.sa.org.au/index.php?option=com_k2&view=item&id=6837:nsw-labor-learns-nothing&Itemid=395&tmpl=component&print=1>.

¹³⁸ Kali Sanyal and Paige Darby, 'Budget Review 2010-2011 Index: Taxation Resource Super Profits Tax', Parliament of Australia Parliamentary Library, 2011 <<http://www.aph.gov.au/library/pubs/RP/BudgetReview2010-11/TaxationRSPTax.htm>>.

¹³⁹ Joe Kelly, 'Prices Boom Hides Mining Tax Shortfall after Backdown Over Super-Profits Levy', *The Australian* (online), 14 July 2010 <<http://www.theaustralian.com.au/politics/prices-boom-hides-mining-tax-shortfall-after-super-profits-levy-backdown/story-e6frgczf-1225891697261>>.

¹⁴⁰ Ibid.

¹⁴¹ 'Mining Tax to Regain Spotlight', *Sky News* (online), 21 March 2011 <<http://www.skynews.com.au/topstories/article.aspx?id=591468&vId=>>>.

¹⁴² Michael Harvey, 'Disaster-Hit Budget Lies Ahead: Swan', *The Herald Sun* (online), 15 April 2011 <<http://www.heraldsun.com.au/ipad/disaster-hit-budget-lies-ahead-swan/story-fn6bfkm6-1226027007577>>.

Minister foreshadowed attacks on the unemployed,¹⁴³ those on disability pensions,¹⁴⁴ teenage mothers,¹⁴⁵ and public servants to name a few plus the usual scapegoating of refugees to divert attention away from its regressive social policies.¹⁴⁶

The magnitude of the back down can best be understood in the context of mining profits today. According to Patrick Durkin ‘four mining companies last year generated almost half the profits of Australia’s 50 largest listed companies ...’¹⁴⁷ It is a case of what might have been if the Labor government had had an ounce of courage in the face of a predictable backlash from mining capital. The mining tax back down may be a turning point for Labor and a rejection by it of its traditional role of ruling for capital, not capitalists.¹⁴⁸ Ross Garnaut put it this way:

The Budget and the resource tax have drawn a powerful negative response from businesses in the resources sector. There is nothing unexpected about that. What we do not yet know, is whether this episode will confirm the descent of Australian political culture into a North Atlantic malaise, or represent a revival of the capacity of the Australian polity to take positions in the national interest, independently of sectional pressures.¹⁴⁹

‘The national interest’ is code for the interests of the ruling class.¹⁵⁰ As Garnaut is hinting, the mining tax backdown highlights the changing nature of the role of social democracy in Australia from social democracy with reforms to a group now captured by specific and powerful interest groups.¹⁵¹ The main function of the RSPT and the MRRT was and is to redistribute social surplus from the mining sector to other capital, through company tax cuts. Labor couldn’t even manage to deliver a mild tax to underpin a transfer of some value from mining capital to other less profitable sections of capital. It was unable and unwilling to enforce its traditional systemic role of ruling for capital.

C Profit rates

The pressure to redistribute from one very profitable section of capital to less profitable sections comes from stagnating profit rates. Since the early 70s there has been a global tendency, bought about by investment in capital being at a greater rate than investment in labour, for profit rates in developed countries to decline and then

¹⁴³ *Gillard Vows Welfare Shake-Up* (2011) ABC News
<<http://www.abc.net.au/news/stories/2011/04/13/3190877.htm>>.

¹⁴⁴ Ibid.

¹⁴⁵ Bramble and Kuhn, above n 106; Heaney, above n 85.

¹⁴⁶ Rebecca Barrigos, ‘Labor Continues to Bash Refugees’, *Socialist Alternative* (online), 7 April 2011
<http://www.sa.org.au/index.php?option=com_k2&view=item&id=6848:labor-continues-to-bash-refugees&Itemid=453>.

¹⁴⁷ Patrick Durkin, ‘Miner’s Take the Lion’s Share of Profits’, *The Australian Financial Review*, 27 April 2011, 3.

¹⁴⁸ Bramble and Kuhn, above n 131.

¹⁴⁹ Ross Garnaut, ‘The New Australian Resource Rent Tax’, *The Sydney Morning Herald* (online), 21 May 2010 <<http://www.smh.com.au/business/the-new-australian-resource-rent-tax-20100520-vqlk.html>>. See also John Passant, *The Mining Barons Run the Country* (2010) En Passant with John Passant <<http://enpassant.com.au/?p=7608>>.

¹⁵⁰ V I Lenin, *Draft These on the National and Colonial Questions* (Beijing, 1975) 22.

¹⁵¹ Rick Kuhn and Tom Bramble, ‘The Business End of Labor’, *Canberra Times* (Canberra), 24 September 2010, 19.

stagnate.¹⁵² The collapse of the Keynesian consensus faced with the crisis of profitability in the early 1970s saw the philosophy and practice of neoliberalism – the free market cures all¹⁵³ – rise from the dead as cover for policies to address falling profit rates. Those policies to be implemented must first of all involve destroying the collective organisation of workers as possible agents of resistance. For this reason Pierre Bourdieu calls neoliberalism ‘a programme for destroying collective structures which may impede the pure market logic.’¹⁵⁴ The policies developed to address falling profit rates include shifting income and wealth from labour to capital,¹⁵⁵ lengthening the working day,¹⁵⁶ wanting to cut real wages,¹⁵⁷ forcing workers to do more with less in the name of increasing productivity¹⁵⁸ and shifting the tax burden further from capital to labour,¹⁵⁹ arguably the defining element of the Henry Tax Review recommendations.¹⁶⁰

D Better lives

People want better lives for themselves and their children.¹⁶¹ These expectations have come up against less social surplus globally as a consequence of the tendency of the

¹⁵² Chris Harman, ‘The Rate of Profit and the World Today’ (2007) 115 *International Socialism Journal* (online) <<http://www.isj.org.uk/index.php?id=340&issue=115>>.

¹⁵³ Chris Harman, ‘Theorising Neoliberalism’ (2007) 117 *International Socialism Journal* (online) <<http://www.isj.org.uk/?id=399>>. See also David Harvey, *A Brief History of Neoliberalism* (Oxford University Press, 2005) where he argues that contrary to neoliberal dogma in fact the free unrestrained market needs to be built, and that this role of construction falls to the capitalist state.

¹⁵⁴ Pierre Bourdieu, *Utopia of Endless Exploitation: The Essence of Neoliberalism* (1998) *Le Monde Diplomatique* <<http://mondediplo.com/1998/12/08bourdieu>>.

¹⁵⁵ As Federal Labor MP Andrew Leigh points out in his book *Mind the Gap*, in ‘2007 the top 1% had 10% of household income, double the share in 1980’. The position for the top 0.1% is even starker. Leigh writes, ‘... by 2007, the richest 0.001 of all Australians again had 4% of household income’. According to the ACTU Economic Bulletin Issue 3, 1 October 2010, ‘the profit share of national income is now near the record highs it reached in 2008, while the wages share of income is the lowest since 1964’.

¹⁵⁶ Brigid Van Wanrooy, *When Do We Stop? Achieving Maximum Weekly Working Hours in Australia* (2011) Workplace Research Centre University of Sydney <<http://wrc.org.au/achieving-maximum-weekly-working-hours.php>>.

¹⁵⁷ Successfully in the US, and at least restraining wages growth in Australia so that the shift of wealth has been to capital. See ACTU Economic Bulletin, above n 155.

¹⁵⁸ John Quiggin debunks the idea that the seemingly large productivity increases of the 1990s – the ‘productivity surge’ – in Australia were actual productivity increases. He says the gains were the result of ‘the increase in the pace and intensity of work’. John Quiggin, ‘No Hard and Fast Rule for Employees’, *The Australian Financial Review*, 18 August 2011, 63. In other words the productivity increases were built on longer days and doing more with less or to use the bosses’ euphemism, ‘working smarter’.

¹⁵⁹ R. Avi-Yonah, ‘Globalization, Tax Competition, and the Fiscal Crisis of the Welfare State’ (2000) 113(7) *Harvard Law Review* 157.

¹⁶⁰ John Freebairn puts it slightly less dramatically. He says ‘As Australia becomes more and more integrated into the global economy, the Henry Review argues that there are large productivity gains for Australian workers and their take-home pay by reducing the tax burden on the internationally mobile input capital and shifting the initial tax burden to immobile land and other natural resources, and to a lesser extent labour and consumption.’ John Freebairn ‘Put Henry Review Reforms Back on Political Agenda’, *The Conversation* (online), 6 April 2011 <<http://theconversation.edu.au/put-henry-review-reforms-back-on-political-agenda-33>>.

¹⁶¹ *Development as a Security Strategy* (2011) 3D Security <http://www.3dsecurity.org/development_as_strategy>.

rate of profit to fall and the failure of the countervailing tendencies,¹⁶² in particular the failure of governments to countenance Schumpeterian creative destruction of companies too big to fail.¹⁶³ Further the pressure from competition on various clusters and concentrations of capital is to reinvest what surplus does exist to keep their motor of capitalism ticking over.¹⁶⁴ The crisis ridden nature of the system can send people not just into poverty but starvation. For example the Global Financial Crisis and, in 2010 and 2011, higher food prices, have pushed over 100 million into starvation or malnourishment.¹⁶⁵ Almost one billion are now starving and another one billion are malnourished.¹⁶⁶

In relation to Australia and the dreams of ordinary working people for a better life,¹⁶⁷ the *Henry Tax Review* recognises that there is a desire to improve ‘... living standards, support for the needy, fairness, social advancement, security and protection of the environment.’¹⁶⁸ In light of efforts around the globe to dismantle the post-war welfare state settlement between capital and labour,¹⁶⁹ the welfare state looks decidedly anachronistic, or perhaps more accurately will do so in future years in Australia as the grand compromise in Europe¹⁷⁰ and elsewhere unravels completely. In Australia it means that the essential Keynesian neoliberalism¹⁷¹ of the *Henry Tax Review* may give way to a ruthless political Thatcherism in years to come. Certainly the rise of the Tea Party and other figures on the right of the Republican movement in the United States, the actions in practice of the Obama administration and the attacks by conservative and social democratic governments across Europe on welfare systems,

¹⁶² Alex Callinicos, *Imperialism and Global Political Economy* (2009) 28-34. See also Alex Callinicos, *Bonfire of Illusions: the Twin Crises of the Liberal World* (Polity Press, 2010); Chris Harman, *Zombie Capitalism: Global Crisis and the Relevance of Marx* (Bookmarks, 2009).

¹⁶³ *Ibid.*

¹⁶⁴ ‘Accumulate, accumulate! That is Moses and the prophets!’ Karl Marx, *Capital Vol 1* (Lawrence and Wishart, 1974) 588.

¹⁶⁵ Sixty million of that 100 million can be attributed to the GFC – ‘World Bank Says GFC Drove Millions to Poverty’, *International Business Times* (online), 22 July 2010 <<http://au.ibtimes.com/articles/37409/20100722/world-bank-wb-gfc-poverty-fragile-recovery-uncertainty-latin-america-mexico-education-infrastructure.htm>> and 44 million because of higher food prices – ‘Food Prices Push 44 m into Poverty: World Bank’, *The Sydney Morning Herald* (online), 16 February 2011 <<http://news.smh.com.au/breaking-news-world/food-prices-push-44-mn-into-poverty-world-bank-20110216-1avcp.html>>.

¹⁶⁶ Frank Mulder, ‘Food Empires Creating Agricultural Crisis’, World Social Forum (online) 18 October 2010 <<http://www.ips.org/TV/wsf/food-empires-creating-agricultural-crisis/>>.

¹⁶⁷ These dreams arise from the place workers have in the productive process as the producers of wealth but not its possessors.

¹⁶⁸ The Henry Tax Review, above n 25, xvii.

¹⁶⁹ Paul Pierson, *Dismantling the Welfare State: Reagan, Thatcher and the Politics of Retrenchment* (Cambridge University Press, 1994) 3; Paul Pierson, ‘Coping with Permanent Austerity: Welfare State Restructuring in Affluent Democracies’ (2002) 43(2) *Revue Francaise de Sociologie* 369.

¹⁷⁰ Ian Taylor, ‘New World Orders Without End? An Intellectual History of Post-War North–South Relations’ (2001-2002) 9&10 *Afrika Zamani* 1, 7 <<http://www.codesria.org/IMG/pdf/taylor.pdf>>.

¹⁷¹ Keynesian neoliberalism has been described as ‘government intervention to save the free market’. See John Passant, Submission No 10 to the Senate Select Committee, *Senate Select Committee on the Scrutiny of New Taxes* <http://www.aph.gov.au/senate/committee/scrutinynewtaxes_ctte/national_mining_taxes/submissions.htm> As La Vie Urbaine puts it in relation to urban development but in doing so makes a point applying in my view more generally: ‘Simultaneously, Keynesian impulses are reformulated into the neoliberal urban development projects and neoliberal characteristics back onto the Keynesian project.’: *Troubling the Keynesian-Neoliberal Periodization on the Flats* (2008) La Vie Urbaine <<http://vivesaintbobo.blogspot.com/2008/08/troubling-keynesian-neoliberal.html>>.

public services and living standards support this. The Australian Prime Minister's recent pre-Budget speech attacking the unemployed and those on disability pensions as effectively being workshy is one part of this grand narrative of Australian neoliberalism.¹⁷² Her attacks on teenage mothers continue that narrative.¹⁷³

The Henry Tax Review attempted to balance two competing views of the way forward for capitalism. The Final Report contains within it the seeds of both social democracy and neoliberalism, what I have called Keynesian neoliberalism.¹⁷⁴ In fact much of the thrust of the Review is in designing a future tax system in which the burden of tax moves further and further on to so called fixed assets, in the main labour.¹⁷⁵ Yet the tendency of the rate of profit to fall, reinforced by the very tax changes Henry suggests, will of necessity force Governments to attack public services.¹⁷⁶ The Keynesian heart meets the neoliberal reality. Taxing economic rent becomes a desperate ploy to address falling profit rates and keep the vision if not the reality of the New Jerusalem alive. It is part of social democracy's adoption of neoliberalism with a Keynesian tint.¹⁷⁷

In this conflict between the old economics and the older economics and their contradictory and intertwined relationships, governments globally may be tempted by what they see as the magic pudding of rent taxes. They also might be tempted by nationalisations – ie state capitalist control of the mining industry. Certainly *the Henry Tax Review* raised nationalisation as a possibility if the inefficiencies of government control were not too great. Such temptations have to be understood in the context of the desire for improved living standards, and mass mobilisations or their lack of them to pursue reforming programmes.

On nationalisations, the Henry Tax Review said:

Public production allows the government to control exploration and production expenditure, but may lower the return to the community if public enterprise is less efficient at resource exploration and production due to a lack of expertise and market discipline.¹⁷⁸

The efficiency argument can be easily answered. If the nationalisation is under workers' control efficiency and creativity will rapidly increase.¹⁷⁹ As we progress,

¹⁷² Julia Gillard, 'The Dignity of Work': Address to the Sydney Institute Annual Dinner 13 April 2011 (2011) Prime Minister of Australia <<http://www.pm.gov.au/press-office/dignity-work-address-sydney-institute-annual-dinner>>.

¹⁷³ Bramble and Kuhn, above n 106; Heaney, above n 85.

¹⁷⁴ See John Passant, above n 171.

¹⁷⁵ Ibid.

¹⁷⁶ O'Connor, above n 12.

¹⁷⁷ For example at a speech delivered at the International Conference on the Global Crisis and Hegemonic Dilemmas (New Delhi, Nov.8-10) Boris Kagarlitsky, the Director of the Institute of Globalization and Social Movements in Moscow, said 'The economic elites are turning to a neoliberal Keynesianism to save the crisis of capitalism, which is doomed to fail because it does not address its root causes.': *Emerging Powers: Allies or Rivals* (2011) Transnational Institute <<http://www.tni.org/multimedia/video-emerging-powers-allies-or-rivals>>.

¹⁷⁸ The Henry Tax Review, above n 26, 219.

¹⁷⁹ Leon Trotsky, 'Workers' Control of Production' (1931) 24 *Bulletin of the Opposition* (online) <<http://www.marxists.org/archive/trotsky/germany/1931/310820.htm>>.

production under workers' control challenges the bourgeois state and an alternative democratic state arises.¹⁸⁰

The key to any democratic model of production is struggle from below. In Australia three decades of class collaboration¹⁸¹ – what is good for the boss is good for workers, with the trade union bureaucracy leading the charge, first through the Accord¹⁸² and then through acquiescence in practice to the Howard agenda¹⁸³ – have driven class struggle underground. In resource rich developing countries, given the low level of institutional development and the drive to neoliberalism over the past decades in most countries, nationalisations are not an option, unless driven by a fear of working class revolution.¹⁸⁴ In Australia the quietude of the working class¹⁸⁵ means a resource rent tax was driven by the needs of capital in general, as viewed through the eyes of the Labor Government rather than any attempt at tax justice. If the furious reaction of mining capital in Australia to a fairly innocuous rent tax, the RSPT, is any guide – and it will be as each individual capitalist and sector of capitalism attempts to protect their patch of profits – it is unlikely in the extreme that governments in developed or developing countries will challenge the power of western mining capital or Chinese state capitalism, unless driven to by revolutionary movements from below.

VI CONCLUSION

This paper has looked at the reasons why the left should be involved in debates about and struggles over tax and justice. It argues that it is out the struggle of ideas and more importantly of action that progressive change can arise. In Australia that battle has been joined around resource rent taxes. The paper then looked at the nature of the ALP as a capitalist workers' party. It examined the Labor Government's attempts to introduce a resource profits tax and the backlash from mining capital which removed a Prime Minister and rolled back the main aspects of the tax. It argued that the back down on the RSPT is an example of a party in transition. This capitulation of Labor raises questions about the role of social democracy in the face of a dwindling social surplus and the shift in social democracy's role from systemic management of capitalism to governing for sectional interests of capital.

The paper suggests that the battle for a just society suffered a setback in Australia when the RSPT was defeated. It offered the potential for the revenue to be used, contrary to Labor's wishes, on socially progressive programmes and the possibility of the expansion of such a tax to all super profits. Its defeat meant the battle over the distribution of the revenue was not joined. The intransigence of mining capital in Australia and its resistance to a mild mining tax could have been met with a struggle from below for 'tax justice'. It was not. The struggles from below in places like Egypt

¹⁸⁰ Ibid.

¹⁸¹ Bramble, above n 50. See also Tom Bramble 'Thirteen Wasted Years? Labor in Power (1983-96) and its Accord with the Unions' *Marxist Interventions* (online) <<http://www.anu.edu.au/polsci/marx/interventions/accord.htm>>.

¹⁸² Rick Kuhn above n 128.

¹⁸³ Tom Bramble, *Trade Unionism in Australia: A History from Flood to Ebb Tide* (Cambridge University Press, 2008).

¹⁸⁴ Cihan Aksan & Jon Bailes 'Revolution Stalled? Venezuela and Bolivia: An Interview with Mike Gonzalez', *State of Nature* (online), Summer 2010 <<http://www.stateofnature.org/mikeGonzalez.html>>.

¹⁸⁵ Bramble, above n 183.

show that the most intransigent of entrenched political figures and their views can be removed with real ongoing struggle. It is a lesson that Australian workers, facing Budget attacks on their jobs and living standards, and job uncertainty, could learn. If they did they could push for a more equitable and just tax system. It is only through struggle that justice can be won and that is as true of tax justice in Australia as it of any other form of justice.