COMMENT

A GROWTH TAX FOR THE STATES?—RUBBISH!

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INTRODUCTION

Given the tightening of the present federal government's purse strings, it seems probable that in the none-too-distant future, state governments will start casting around for other sources of revenue. This article suggests that there is, as yet, an untapped area of taxation which is worthy of consideration. Moreover, if any form of taxation can be said to be popular, this particular tax may have a certain electoral appeal. It taxes a socially unacceptable practice, is population-growth oriented, lends itself to an inexpensive method of collection, makes evasion difficult, and from a state parliamentary draftsman's point of view, does not appear to infringe s. 90 of the Australian Constitution.[1]

The suggested tax base is 'rubbish'—and by rubbish is meant the community's refuse. It is suggested that a pollution tax, based on the quantity of refuse received for disposal at the various municipal and commercial tips and incinerators, is an area ripe for exploitation by the state governments.[2]

LIMITATIONS ON A STATE GOVERNMENT'S TAXING POWER

Before a state government imposed any form of taxation, it would probably wish to examine the impost from three different viewpoints, namely legal, administrative, and political. The *legal* examination would reveal whether the tax could be levied by the state, given the existence of s. 90 in the Australian Constitution and its effect on state taxing powers. The *administrative* examination would ascertain how broad the tax base would be, and the number of public servants it would take to collect, and detect evasion of, the tax. The *political* examination would endeavour to predict the effect the tax would have on commonwealth-state relations, and on the voters of the state. These three aspects are examined in turn, and then related to a proposed pollution tax.

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1 *The Commonwealth of Australia Constitution Act* 1900, 63 and 64 Vict. c. 12, s. 90. "1. *Exclusive power over customs, excise, and bounties:* On the imposition of uniform duties of customs the power of [the Commonwealth] Parliament to impose duties of customs and excise . . . shall become exclusive. On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise . . . shall cease to have effect . . ."

2 Most of the data used in this article are drawn from Victorian sources. However, it is suggested that the principle applies to all states.

LEGAL IMPLICATIONS

The major legal stumbling block to any state growth-based tax is s. 90 of the Australian Constitution. Section 90 was inserted into the Australian Constitution to ensure that the correlative powers of imposing customs and excise duties were exclusively exercised by the one parliamentary body.[3] Prior to federation, each Australian colony unilaterally imposed customs and excise duties without any regard to their effect upon the other Australian colonies. This resulted in widely divergent rates of duty on similar articles, depending to a large extent on whether the colony concerned adopted a trading policy of "free-trade" (e.g. N.S.W.) or "protectionist" (e.g. Victoria).

As a result, quite savage tariff wars ensued between the Australian colonies,[4] the prevention of which provided much of the impetus towards federation.[5] After federation, and until 1910, the only taxes levied by the Commonwealth were those of customs and excise.[6] These were gradually supplemented by other forms of taxation, but even now, customs, excise and sales tax (a form of excise) represent about 27% of the total taxation revenue of the Commonwealth.[7]

As well as providing substantial Commonwealth revenue, these taxes serve another purpose. They are a powerful economic weapon in the armoury of the Commonwealth, affecting as they do large sections of Australia's manufacturing and agricultural industries. Even modest alterations to the rates of these taxes have a substantial effect on the economy of Australia as a whole.

Despite the original and continuing importance of s. 90 to the Commonwealth, the Constitution does not define "a duty of excise". Thus it has fallen to the High Court to determine its meaning, and this it has attempted to do on some 23 separate occasions.[8] By consistently striking down state taxes which in its opinion infringe s. 90,[9] the High Court has

[3] Quick and Garran, *The Annotated Constitution of the Australian Commonwealth* (Sydney, Angus and Robertson 1901) 837.

[4] This pre-federation tariff situation has been abstracted from C. D. Allin, *A History of the Tariff Relations of the Australian Colonies* (University of Minnesota, Minneapolis 1918).

[5] "[T]he main purpose of the Commonwealth was to secure uniformity in [customs and excise] duties and their abolition as regards the intercolonial trade." W. H. Moore, *The Constitution of the Commonwealth of Australia* (London, John Murray 1902) 195.

[6] *Official Year Book of the Commonwealth of Australia* No. 14 (Melbourne, Government Printer 1921) 670.

[7] Receipts 1974-75 *Estimates of Receipts and Summary of Estimated Expenditure* (Canberra, A.G.P.S. 1975) 11.

[8] See *Annotations to the Acts and Regulations of the Australian Parliament* (Butterworths, 1973 edition) 16-17; also, *H.C. Sleigh Ltd* v. *State of South Australia* (1977) 12 A.L.R. 449; *Logan Downs Pty Ltd* v. *State of Queensland* (1977) 12 A.L.R. 484.

[9] The most striking success of the states has been the licencing of brewers *(Peterswald* v. *Bartley* (1904) 1 C.L.R. 497) and victuallers (*Dennis Hotels Pty Limited* v. *Victoria* (1960) 104 C.L.R. 529).

placed certain legal restrictions on the states' ability to levy growth-oriented taxes. In so doing, it has consolidated the Commonwealth's paramount position in the tax/economic-management field.

The most recent cases to be decided by the High Court were *H.C. Sleigh Ltd.* v. *State of South Australia*[10] and *Logan Downs Pty. Limited* v. *State of Queensland.*[11] Of these two, *Sleigh's* case offers a comprehensive overview of the development of the High Court's reasoning since 1904.[12] As the scheme under challenge in *Sleigh's* case was indistinguishable from that held to be valid in the *Dennis Hotels*[13] and *Dickenson's Arcade* cases,[14] the authority of which remained unimpaired by *Kailis'* case,[15] and as no reason had been advanced to show why those two cases should not be followed, the tax scheme was held to be valid.[16]

In *Dickenson's Arcade* case, the Court spelt out fairly clearly the nature of a duty of excise, and the matters relevant to the determination of whether or not a tax is a duty of excise. It is obvious from the judgments, however, that there was a wide divergence of opinion as to the applicability of the stated criteria to the facts in issue.[17] For the purpose of this article, it is necessary only to state certain relevant[18] criteria upon which the justices were in broad agreement. They were:

(a) a duty of excise must relate in some way to *goods,*[19] whether it be the goods themselves, or the movement of goods;

(b) a tax is not a duty of excise if it taxes goods once they reach the hands of the consumer;

(c) the method of payment of the tax must not be a de facto imposition of the tax on the movement of the goods into the hands of the consumer, even though the tax legislation purports to provide for payment of the tax consequential upon the consumption of the goods by the purchaser, or some other person.

10 (1977) 12 A.L.R. 449.
11 (1977) 12 A.L.R. 484.
12 See especially Jacobs J., 473-9.
13 (1960) 104 C.L.R. 529.
14 (1974) 2 A.L.R. 460; (1973-74) 130 C.L.R. 177.
15 (1974) 2 A.L.R. 513; (1973-74) 130 C.L.R. 245.
16 Per Barwick C.J., Gibbs, Stephen, Mason and Murphy JJ. (Jacobs J. dissenting).
17 See D.J. Cremean, "Consumption Taxes, Licence Fees and Excise Duties" (1973-74) 9 *M.U.L.R.* 735, 739. The writer is indebted to Mr Cremean for a clear analysis of a most involved judgment.
18 This article is mainly concerned with the judgment in so far as it relates to the *Tobacco Act* 1972 (Tas.), Part II, and the regulations made thereunder. These provisions (a) imposed a 7½% tax on the consumption of tobacco, and (b) specified the methods of payment and collection of the tax. These provisions were struck down by the High Court.

Part III of the Act (which was also challenged) made it an offence to sell tobacco by retail without a licence. A fee was charged for the licence. Part III was drafted so as to bring it within the criteria held valid by the High Court in the *Dennis Hotels* case. Consequently, the High Court held that the licence fee imposed by Part III was not a duty of excise.
19 The views of McTiernan J. are ambiguous. See Cremean op. cit. 748.

The relevant parts of the Tasmanian legislation[20] met the first two criteria mentioned, but foundered on the third.

How would a pollution tax fare, given the above criteria? A pollution tax based on the quantity of refuse received for final disposal at a tip site or incinerator would not appear to be a tax on "goods"—the "goods" have been consumed, leaving only unwanted residue. Provided no tax is charged on articles which have been extracted for recycling purposes (such as scrap metal or glass), there should be little risk of a tax on the refuse that is actually tipped or burnt being characterised as an excise duty, i.e. "[a tax] directly related to goods imposed at some step in their production or distribution before they reach the hands of consumers".[21] Rather, such a tax would seem to fall squarely within Barwick C.J.'s concept of a tax upon "consumption" viz., " 'consumption' involves . . . the act of the person in possession of the goods in using them or in destroying them by use . . ."[22] If, therefore, a tax on the amount of refuse that is actually tipped or burnt can be characterised as a consumption tax, then it can validly be imposed by the states, for such a tax is not a duty of excise.[23]

ADMINISTRATIVE IMPLICATIONS

Even if the elaborate collection scheme attacked in the *Dickenson's Arcade* case had been upheld, or conversely, even if a scheme could be devised that would meet all of the High Court's criteria, the states' problems would not end there.

In the first place, the very nature of a consumption tax would seem to require each consumer of the item to lodge an individual tax return. Thus, if the tax is levied on the public at large, a veritable army of public servants would be required to process and check the flood of paperwork. On the other hand, if the tax was levied only on a limited class of consumer, there would be a risk of unfair discrimination.

In the second place, tax evasion would be difficult to detect. If the consumable was truly consumable, for example tobacco, the evidence of evasion could literally go up in smoke! If, however, the item was a consumer durable, for example a television set, any scheme would seem to require a corresponding return from the vendor if evasion was to be detected. This, in turn, would increase the quantity of paperwork, and

[20] See *supra* fn. 18.

[21] *Bolton* v. *Madsen* (1963) 110 C.L.R. 264, 271. However, the broad sweep of this definition might catch a tax on *recycled* articles, on the basis that such a tax is upon goods which have not as yet been "consumed", and/or the tax is on some step in the production of a *new* product.

[22] *Dickenson's Arcade* case (1974) 2 A.L.R. 460, 466.

[23] Cremean, op. cit. 750; also, "The principle that a tax on consumption is not a duty of excise for the purpose of section 90 of the Constitution must now be regarded as settled". M. Coper, "The High Court and Section 90 of the Constitution" (1976) 7 *Federal Law Rev.* 1, 10.

presumably, the number of public servants required to administer the scheme.[24]

How would the proposed pollution tax meet these objections? Every person in our community at some time creates, and then disposes of, some form of refuse. Thus, if those who manage the municipal and commercial tip sites and incinerators were taxed on the quantity of refuse they receive for actual disposal or destruction (i.e. excluding items extracted for recycling purposes), and then were permitted to increase their charges accordingly, the tax would ultimately find its way back to every relevant member of the public—either directly, by the rubbish removalist similarly increasing his charges, or indirectly, via the municipal rates. In this way, the tax would be spread equitably over those who create the refuse initially.

As it is proposed that the tax be based on the amount of refuse received at the disposal site for actual disposal or destruction, the only persons who would be required to complete and file a tax return would be the final bulk disposer, and the recipient of the refuse.

According to a report issued by the Environment Protection Authority of Victoria, during the year ending 30th June, 1974, a total of 7.405 million cubic metres of municipal (i.e. domestic), industrial and commercial refuse, plus 50,799 kilo-litres of liquid wastes, and about 13,500 car bodies, were received for disposal in Victoria.[25]

These figures were based on returns covering over 90% of the Victorian population, and included the industrial and commercial refuse carried by commercial waste carriers operating in the greater Melbourne area. This refuse was collected and transported by 131 bulk disposers,[26] and accepted by approximately 200 recipients.[27] Thus, on the assumption that the refuse deposited by the population surveyed in the report represented 90% of the total refuse generated and deposited in Victoria,[28] then only approximately 331 tax returns would be required to enable assessment for tax liability. With such a small quantity of returns to be processed,

[24] "[T]he cost, the inconvenience, the possibilities of evasion and the intolerable burden of paperwork involved in the adoption of [a consumption tax] would be weighty factors in deciding whether to impose the tax in the first place." Cremean, op. cit. 751.

[25] Municipal Waste Services in the Greater Melbourne Area and Provincial Centres—August 1975—*Environment Protection Authority Report* No. LW3, 6-9, 12. These figures are "as carried" and exclude cover material.

[26] 54 Municipal and 62 Provincial councils, 15 waste collector companies; *E.P.A. Report* op. cit. Appendix (i), 11-12.

[27] According to Mr B. Wallwork, Principal Land Waste Management Officer—Planning, Environment Protection Authority of Victoria.

[28] The remaining 10% was deposited by bulk disposers considered too small to include in the *E.P.A. Report,* and private individuals depositing their own refuse. It may be necessary to devise a simplified return for this 10%; or alternatively require the recipient to add 10% to his bulk returns, and leave it up to him to collect the appropriate tax from each individual. Provision should also be made for occasions when the amount deposited by individuals is unusually large because of (say) a strike by garbage workers.

even on a monthly-return basis, one officer with (say) two clerical assistants should be able to cope. To ensure correct returns from the parties, it may also be necessary to appoint a field officer.

It is interesting to note that already in Victoria all bulk disposers and recipients of refuse forward annual statistical returns to the Environment Protection Authority. Thus, apart from attaching a cheque to the return, there would seem to be very little extra work involved for all concerned.

In so far as tax evasion is concerned, provided both the disposer and the recipient lodge independent returns, it should be a relatively simple matter to cross-check the figures. Neither party would have an interest in mis-stating the quantity of refuse—the disposer, lest he pay too much for the disposal facility; the recipient, lest he receive insufficient payment.

In the case where the disposer and the recipient are the same person (i.e. where a municipality, or a waste collector company use their own facilities) a closer check may be necessary. However, such a situation is not unique in the taxation field, and a provision analogous to ss. 39 and 40 of the *Income Tax Assessment Act* 1936 (Cth) might lessen the temptation to understate the figures.[29]

POLITICAL IMPLICATIONS

Any consumption tax imposed by a state runs the risk of incurring the wrath of the Commonwealth. As mentioned above, the imposition of federal customs, excise, and sales taxes serves a dual function. They provide a substantial source of revenue for the Commonwealth,[30] and they "are one of the major sources of power of the [Commonwealth] Parliament to influence the economy of Australia".[31]

Thus, if the Commonwealth saw its financial and/or national economic management power base being threatened by a state consumption tax, it might feel inclined to nullify its effect. It has ample methods at its disposal. For example, it could:

(a) institute a federal consumption tax law[32] with a view to rendering invalid a state law on the same matter;[33] or

[29] See also *Liquor Control Act* 1968 (Vic.) s. 159. A satisfactory clause to cover this situation could read, "where the quantity of waste cannot be ascertained to the satisfaction of the Commissioner, it shall be deemed to be such amount as the Commissioner determines".

[30] See *supra* fn. 7.

[31] Per Barwick C.J. in the *Dickenson's Arcade* case (1974) 2 A.L.R. 460, 464. Also, both McTiernan and Mason JJ. see s. 90 as securing "a uniform fiscal policy for the Commonwealth"—*Kailis'* case (1974) 2 A.L.R. 513, 517, 529.

[32] *Australian Constitution* s. 51(ii).

[33] Under s. 109, according to Cremean (op. cit. 749) but Professor Colin Howard sees some difficulties in applying s. 109 of the Australian Constitution to tax laws. C. Howard, *Australian Federal Constitutional Law* (2nd ed. Sydney, Law Book Co. Ltd 1972) 41, 87, 369; see also *Second Uniform Tax Case* (1957) 99 C.L.R. 575, 657, per Fullager J.

(b) make its grants to the state[34] subject to the condition that the state refrain from imposing the consumption tax;[35] or

(c) reduce its grants to the state by an amount equal to the amount raised by the state's consumption tax.

With any, or all, of these alternative remedies available to the Commonwealth, it could quickly empty of value any state's consumption tax,[36] even where the scheme had received the imprimatur of the High Court.

In addition to the possibility of incurring the ire of the Commonwealth, the political response of the state's electorate would need to be considered.

First, the public at large would be required to complete and forward a state tax return—unlikely to be popular. Secondly, to administer a broadly based consumption tax scheme would probably require an increase in the number of public servants—rarely popular. Thirdly, a consumption tax may well be interpreted by the public to be simply a further sales tax—most unpopular! However, a pollution tax does not seem to raise the same objections.

In so far as the Commonwealth is concerned, the tax is on the refuse, and not on the goods. Thus it is unlikely to reflect itself in a lowering of demand for the goods themselves, which in turn may have had the concomitant effect of reducing the Commonwealth's revenue.[37] If the demand for the goods is not affected, it is unlikely that a pollution tax will have a sufficient economic impact to threaten the national economic management policies of the Commonwealth.[38]

In so far as its effect on the state electorate is concerned, it is doubtful that any tax would be welcomed with joyous cries. However, a pollution tax may have some positive social benefits that other taxes may seem to lack. For example:

(a) it rewards the conservationist and penalises the pollutor;[39]

[34] *Australian Constitution* s. 96.

[35] See *Second Uniform Tax* case (1957) 99 C.L.R. 575.

[36] See Cremean, op. cit. 749.

[37] It may, however, have an effect on the packaging industry. See Appendix for an analysis of the composition of domestic garbage in the Melbourne metropolitan area.

[38] Even if a consumption tax does have the same economic effect as other taxes prohibited by s. 90, it is of doubtful relevance to its validity, according to Gibbs J. —*Dickenson's Arcade* case (1974) 2 A.L.R. 460, 495.

[39] This would occur where, for example, the residents of one municipality generated less refuse than another. Their municipal rates would then reflect the amount of pollution tax being paid by their council to dispose of their refuse. There is a possibility that an increase in the charges for disposing of refuse might have the effect of deterring persons from ridding their premises of rubbish, thus causing a health hazard. This is not considered to be a serious possibility, given the relatively low charge for rubbish removal. For example, in the City of Malvern, the annual domestic garbage charge for the year 1976-77 was $21 per tenement.

(b) it would require very little extra administrative work on the part of the disposers and the recipients, as they are already submitting statistical returns;

(c) it would be inexpensive for the state government to administer;

(d) it would enable the state government to regulate the use of disposal facilities, by levying differential rates of tax according to the nature and location of the facility;[40]

(e) the state government could direct that the revenue from this source be (say) collected by, and earmarked for, the Department of Conservation;[41]

(f) it would mean that a person who dumps refuse at any location, other than at a licenced site, would not only be liable to a penalty as a pollutor,[42] but would also be committing a fraud on the revenue. Governments seem to treat the latter far more seriously;

(g) relatively low contribution per taxpayer.[43]

Contrast these benefits with the New South Wales petrol tax, which was abolished on April 1, 1976.

> "The [New South Wales petrol] tax, probably the most unpopular revenue raising impost levied by any State government in recent years, was introduced by Sir Robert Askin shortly before he resigned as Premier 18 months ago. Besides being enormously unpopular, the tax has created considerable administrative difficulties for the government, and has proved to be a highly inefficient revenue raising device."[44]

SUMMARY

If it is accepted that a pollution tax based on the amount of refuse deposited at disposal sites would meet the legal, administrative, and political objections that could be raised against other forms of consumption taxes, it is necessary now to consider:

(a) the form of the legislation necessary to bring the scheme into effect;

(b) the estimated revenue, and average contribution of each taxpayer; and

(c) the long-term growth potential of the tax.

[40] For example, the government may wish to preserve or accelerate the filling of inner-area landfill sites, depending upon the need for recreational open space.

[41] The estimated expenditure for the Victorian Department of Conservation (of which the Environment Protection Authority is a division) for the period 1975-76 was $12.678 million— *Estimates of the Receipts and Payments of the Consolidated Fund for the Year Ending June, 1976* (Melbourne, Victorian Government Printer 1975) 11.

[42] *Environment Protection Act* 1970 (Vic.) ss. 49-53.

[43] Discussed in more detail below.

[44] *Australian Financial Review* March 17, 1976, 7.

(a) *Legislative requirements in Victoria*[45]

An amendment to the *Environment Protection Act* 1970 (Vic.) would seem to be the most appropriate legislative vehicle. This Act already has provision for the isssuance of licences (s. 20), the monitoring of wastes (s. 21), the payment of fees (s. 24), penalties for unlicenced discharge (s. 27), the furnishing of information, (with penalties for non-compliance) (ss. 54-5), and payment of fees into Consolidated Revenue, (s. 69).

As a pollution tax appears to be a true consumption tax, it does not seem necessary to adopt the "retroactive fee" formula which withstood challenge in the *Dennis Hotel* case.[46] Nevertheless, to be absolutely certain, a similar formula could be employed if thought necessary. The tax would then be paid according to the amount of refuse received by the recipient in the previous twelve months.

(b) *Estimated Revenue and Contribution per Taxpayer*

Although the scheme envisages that the tax would be levied upon the final recipient of the refuse, it is anticipated that the cost of the tax would be charged to the final disposer by the recipient increasing his charges for the use of the disposal facility. If the disposer, in turn, increases his charges by a like amount, the tax should find its way back to the actual generator, thereby ensuring a wide tax base.

The tax base of the scheme can be divided into two broad categories, viz., the generators of:

(i) municipal (i.e. domestic) refuse, and

(ii) industrial and commercial refuse.

(i) *Municipal Refuse*

Municipal refuse accounts for about 60% of the total waste generated in Victoria. In the year ending June 30th, 1974, Victoria produced slightly in excess of 4.414 million cubic metres of municipal refuse.[47] Therefore, based on a surveyed population of 3.3 million, each person generated an average of approximately 1.33 cubic metres of refuse.

Thus, a tax of (say) $2 per cubic metre, would have cost each person about $2.70 for the year, and yielded about $8.828 million for the revenue.

[45] For reasons of length, this article has examined only the Victorian situation. It is felt that similar provisions could be instituted in other states.

[46] (1960) 104 C.L.R. 529. The "retroactive fee" formula was devised by the Victorian Government, and enabled it to charge would-be liquor licencees a licence fee based on the quantity of liquor sold by them in the preceding twelve months. See *Liquor Control Act* 1968 (Vic.) s. 159. The validity of this formula was upheld in the *Dennis Hotel* case, and reaffirmed in the *Dickenson's Arcade* and *Sleigh's* cases.

[47] *E.P.A. Report* LW3, op. cit. 8. (To the 3.616 million cubic metres generated by the Greater Melbourne Area, add 798,000 cubic metres generated by the provincial centres, this being 60% of the 1.330 million cubic metres of *all* refuse generated by the provincial centres. Ibid. 6.)

(ii) *Industrial and Commercial Refuse, (including liquid wastes and car bodies)*

For the year ending 30th June, 1974, Victoria produced for disposal 2.991 million cubic metres of industrial and commercial refuse, 50,799 kilo-litres of liquid wastes, and about 13,500 car bodies.[48] It is not possible to relate the total quantities to a per capita basis, for the number of generators is not known. However, if a tax was levied of (say) $2 per cubic metre of refuse, $2 per kilo-litre of liquid waste, and $5 per car body,[49] it would have yielded about $6.151 million for the revenue.

Thus, the potential tax revenue from all of the surveyed refuse for that period would have been approximately $15 million—a not inconsiderable sum, especially when compared with the Victorian tobacco licencing fee, which was expected to yield $10 million for the year 1975-6.[50]

(c) *Long-term Growth Potential of the Tax*

Despite a commonly-heard prediction that Victoria is doomed to face an ever-increasing level of waste generation,[51] there is a view that the per capita generation of refuse, at least in relation to packaging, is starting to level out.[52]

The Environment Protection Authority of Victoria is presently engaged in a garbage analysis programme to enable it to detect trends in the composition and quantity of domestic garbage. Until the final results of this programme (expected in 1977) are known, it is difficult to predict the growth potential of a tax on refuse.

However, even if refuse is not increasing on a per capita basis, it should still bear a very close relationship to any change in the population.[53] Consequently, a pollution tax based on the total generation of refuse should keep pace with the demand for services created by increases in the population.

[48] Ibid. 7, 8, 12. (To the 2.456 million cubic metres generated by the Greater Melbourne Area, add 532,000 cubic metres generated by the provincial centres, this being 40% of the 1.330 million cubic metres of *all* refuse generated by the provincial centres. Ibid. 6.)

[49] This assumes that the car bodies were not recycled as scrap metal. If they were, it may not be possible to levy a tax on them, see *supra* fn. 21.

[50] *Estimates of the Receipts and Payments of the Consolidated Fund for the Year Ending June, 1976* op. cit. 2.

[51] See, *Disposal and/or Destruction of Garbage and Other Rubbish—1971 Progress Report of the State Development Committee of the Victorian Parliament,* Victoria, *Parliamentary Papers,* 1971 No. 1, p. 6, para. 19; also, "Garbage—A Towering Mountain", published in *The Clean Environment,* December 1975, the official journal of the Clean Air and Environment Council of Victoria.

[52] B. Wallwork, *Composition and Quantity of Domestic Garbage Generated in the Greater Melbourne Area* (Unpublished paper presented to the Third National Chemical Engineering Conference, Mildura, Victoria, 1975) T83. Wallwork feels that "the supermarket revolution of the past 20 years is now accomplished and packaging is not expected to increase on a per capita basis".

[53] Ibid. T81.

CONCLUSION

A pollution tax, based on the disposal of rubbish, offers state governments a population-based growth tax which may not contravene s. 90 of the Constitution, is simple and inexpensive to collect, difficult to evade, and may have a certain electoral appeal.

Is it an offer too good to refuse?

APPENDIX

ANALYSIS OF THE COMPOSITION OF GARBAGE IN THE MELBOURNE METROPOLITAN AREA

Waste Category	*Weighted Mean*	*Percent By Weight*						
		Keilor	*Whittles.*	*Springv.*	*Williams.*	*Croydon*	*Coburg*	*Prahran*
Paper Products	24.9	17.5	20.4	26.4	23.2	19.4	21.4	32.7
Food Wastes	41.2	55.1	45.5	40.7	41.0	41.1	45.0	32.5
Garden Waste	4.9	2.0	4.1	4.6	5.2	0.5	4.3	7.9
Steel	7.5	7.1	8.2	8.1	8.5	11.2	8.3	5.1
Aluminium	0.5	0.4	0.5	0.6	0.9	0.6	0.4	0.4
Other Metals	0.2	0.0	0.0	0.0	0.1	0.0	0.3	0.3
Glass	14.7	11.2	14.3	13.6	10.8	18.6	14.8	16.5
Rags	1.4	1.0	1.0	1.9	1.9	1.5	1.5	1.2
Timber	0.1	0.1	0.0	0.0	0.1	0.1	0.1	0.1
Plastics	3.0	2.5	4.0	3.6	2.9	3.4	3.1	2.4
Inert Wastes	1.6	3.1	2.0	0.5	5.5	3.6	0.8	0.7
TOTALS	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Mean Weight Per Capita Week-Kg	3.03	1.67	2.17	2.91	1.98	2.74	3.52	5.68

Source: B. Wallwork, *Composition and Quantity of Domestic Garbage Generated in the Greater Melbourne Area* (Unpublished paper presented to the Third National Chemical Engineering Conference, Mildura, Victoria, 1975) T82.