

THE CITIZEN’S DIVIDEND

Prof. Bill Raley¹

ABSTRACT

This paper proposes a radically-novel type of basic income program that is designed to avoid common weaknesses of other basic income plans. It proposes a basic income system that eliminates poverty, self-corrects against disincentives to work, is deficit-neutral, does not require an unprecedentedly-high tax rate, self-corrects against inflationary or deflationary spirals, smooths out the business cycle, and incentivizes co-parenting and replacement-level population growth. The paper proposes that the United States adopt a constitutional amendment to impose a 20% value-added tax, and deposit the VAT revenue into a common fund at the start of each fiscal quarter. Simultaneously with the deposit, the government will issue 90-92 (equal to the number of days in the upcoming quarter) unvested shares of the fund to every adult citizen (parents of minors may receive additional shares). During the quarter, one share will vest each day, and the holder can then redeem the vested share for an amount of cash equal to the balance of the fund divided by the total number of outstanding shares.

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¹ Hanyang University School of Law. Email: bir904@g.harvard.edu. © 2018, Bill Raley.

INTRODUCTION

The potential of automation to render jobs obsolete has been discussed since the days of Aristotle.² In recent years, anxiety about technological unemployment has reached a level not seen since the Luddite rebellion. Economists are predicting that automation will eliminate millions of jobs in the near future, causing the media and policy makers to sit up and take notice.³

Marxists have long warned that, since the “tendency of capital [is] to move towards the minimization and eventual virtual elimination of human labor,” rising efficiency, automation, and unemployment could eventually push capitalism to the breaking point.⁴ Until recently, experts had largely dismissed this notion as a “lump of labor fallacy,”⁵ but now economists are seriously debating whether the current period of technological evolution is different.⁶ With artificial intelligence, robots, and other forms of automation threatening to permanently increase structural unemployment, some are suggesting that Marx may finally be proven a

²ARISTOTLE, POLITICS 6 (Benjamin Jowett trans., 1885) (“If [...] the shuttle would weave and the plectrum touch the lyre without a hand to guide them, chief workmen would not want servants, nor masters slaves.”).

³ For example, the *Huffington Post*, quoting economists, has reported that self-driving automobile technology alone could put nearly nine million trucking-related jobs in jeopardy. Scott Santens, *Self-Driving Trucks Are Going to Hit Us Like a Human-Driven Truck*, HUFF. POST, May 18, 2016, http://www.huffingtonpost.com/scott-santens/self-driving-trucks-are-going-to-hit-us_b_7308874.html. The *Washington Post* also reported that automation could threaten nearly nine million fast food jobs. Lydia DePillis, *Automation Also Poses a Threat to Nine Million Fast Food Staffing Jobs*, WASH. POST, Aug. 16, 2015, https://www.washingtonpost.com/business/capitalbusiness/minimum-wage-offensive-could-speed-arrival-of-robot-powered-restaurants/2015/08/16/35f284ea-3f6f-11e5-8d45-d815146f81fa_story.html. The Bank of England warns that machines might take over 50% of the workforce in the U.S. and U.K. Chris Smith, *Bank of England: 95 million jobs going to robots in the next 10 to 20 years*, BGR, Nov. 16, 2015, <http://bgr.com/2015/11/16/robots-replacing-human-jobs/>. In response to these challenges, the Congressional Joint Economic Committee held a hearing on “The Transformative Impact of Robots and Automation” in order to address disruptions to the job market caused by technical advances.

⁴ HAL DRAPER, KARL MARX’S THEORY OF REVOLUTION 576 (1978).

⁵ See, e.g., Tom Walker, *Why Economists Dislike a Lump of Labor*, 65 REV. SOC. ECON. 279 (2007).

⁶ Duncan Weldon, *Were the Luddites right about technology and jobs?* BBC, Nov. 14, 2015, <http://www.bbc.com/news/business-34813903> (reporting that while “it is certainly not every day that a senior economic policy maker can be heard publically wondering if maybe the Luddites ‘had a point after all,’” the Bank of England’s chief economist “thinks the Luddites might - 200 years later - have had a point.”).

prophet, that capitalism will finally become a victim of its own success, and that the end of the Fourth Stage of History is finally at hand.⁷

Against this backdrop of anxiety, many are now advocating a tax-funded “basic income” guarantee as a solution to a post-work, automated economy.⁸ To put it in Luddite terms, the idea is to tax the looms rather than smash the looms, and use the tax revenue to support those whom the looms have put out of work. A limited level of income redistribution would allow industry to continue reaping the benefits of increasing technological efficiency, while also mitigating the harms of increasing technological unemployment.

Though “the idea behind a basic income for all is actually quite old,”⁹ the issue has only recently entered the mainstream debate. Basic income is currently undergoing a “meteoric surge of interest,”¹⁰ as evidence by the fact that Google searches for “basic income” increased five-fold over the past five years.¹¹ Several basic income experiments are currently underway to study how individuals behave when given a basic income with no work requirements,¹² and supporters of basic income even managed to gather enough signatures to put the issue on the ballot in a recent Swiss referendum.¹³

⁷ See, e.g., Paul Mason, *The End of Capitalism Has Begun*, GUARDIAN, July 17, 2015, <https://www.theguardian.com/books/2015/jul/17/postcapitalism-end-of-capitalism-begun>.

⁸ See, e.g., Derek Thompson, *A World Without Work*, ATLANTIC, July/Aug. 2015, available at <http://www.theatlantic.com/magazine/archive/2015/07/world-without-work/395294/>.

⁹ Ryan Avent, *Economist Explains: Universal Basic Incomes*, ECONOMIST, June 5, 2016, <http://www.economist.com/blogs/economist-explains/2016/06/economist-explains-4>.

¹⁰ Basile Durand & Henri Geist, *FRANCE: Will France be the next European country to start basic income tests?* BASICINCOME.ORG, May 4, 2016, <http://www.basicincome.org/news/2016/05/will-france-be-the-next-european-country-to-start-basic-income-tests/>.

¹¹ Google Trends, <https://www.google.com/trends/explore#q=basic%20income> (last visited May 26, 2018) (showing world-wide searches for “basic income”).

¹² Olivia Goldhill, *We talked to five experts about what it would take to actually institute Universal Basic Income*, QZ, Feb. 6, 2016, <http://qz.com/611644/we-talked-to-five-experts-about-what-it-would-take-to-actually-institute-universal-basic-income/> (“In Silicon Valley, startup investment firm Y Combinator has plans to fund a basic income experiment in the US, while Finland announced last year it would conduct its own extensive experiment.”).

¹³ *Switzerland’s voters reject basic income plan*, BBC, June 5, 2016, <http://www.bbc.com/news/world-europe-36454060> (“There was little support among Swiss politicians for the idea and not a single parliamentary party

Various types of basic income plans have been proposed – such as a means-tested guaranteed minimum income,¹⁴ a negative income tax,¹⁵ and even a “robot dividend.”¹⁶ The version that has drawn by far the most interest is “universal basic income” (UBI), under which everyone, rich and poor alike, would receive a modest income.¹⁷

Unfortunately, no program designed so far has gained much traction. It seems that every proposal has a fatal flaw, whether it be inefficiency,¹⁸ inadequacy,¹⁹ unaffordability,²⁰ unsustainability,²¹ or ideological opposition.²² Despite widespread interest in the concept, no feasible basic income plan has yet been developed.

came out in favour, but the proposal gathered more than 100,000 signatures and was therefore put to the vote under the Swiss popular initiative system.”).

¹⁴ See, e.g., Danny Vinik, *Here’s How The Government Could Make Sure That Everyone Gets At Least \$500 Per Month*, BUS. INSIDER, Dec. 22, 2013, <http://www.businessinsider.com/heres-how-to-fund-a-guaranteed-basic-income-2013-12>.

¹⁵ Jodie T. Allen, *Negative Income Tax*, in LIBRARY OF ECON. & LIBERTY, CONCISE ENCYCLOPEDIA OF ECONOMICS (1993), available at <http://www.econlib.org/library/Enc1/NegativeIncomeTax.html>.

¹⁶ Erik Brynjolfsson & Andrew McAfee, *Will Humans Go the Way of Horse Labor? Labor in the Second Machine Age*, FOR. AFFAIRS, July/Aug. 2015, available at <https://www.foreignaffairs.com/articles/2015-06-16/will-humans-go-way-horses>.

¹⁷ CHRISTOPHER L. MARTIN, JR., RETHINKING INCOME GUARANTEES 3 (2009) (“In its most popular form, proposed by Belgian philosopher and economist Philippe Van Parijs, basic income is universal (available to all) and unconditional, without means test or work test.”). The “simplicity and fairness” of UBI is what makes it attractive to many. Scott Santens, *Inequality and the Basic Income Guarantee*, MEDIUM, Feb. 27, 2016, <https://medium.com/basic-income/inequality-and-the-basic-income-guarantee-c8f84d936640#cbjli9qb7>; Veronique De Rugy, *UBI: I Like the Idea but I Can’t Fully Support It Either*, NAT. REV., April 5, 2016, <http://www.nationalreview.com/corner/433670/ubi-great-idea-many-implementation-issues> (“[T]he idea of direct cash payments has an intuitive appeal because of its comparative simplicity and fairness.”).

¹⁸ See, e.g., Peter Beresford, *Why means testing benefits is not efficient or fair*, THE GUARDIAN, Jan. 14, 2013, <https://www.theguardian.com/social-care-network/2013/jan/14/means-testing-benefits-not-efficient-fair> (comparing means-tested programs to universal benefits and concluding that “means testing generally means is a lot more bureaucracy. This is quite likely to eat up any apparent savings that it is suggested it will make possible.”).

¹⁹ Joi Ito, *The Paradox of Universal Basic Income*, WIRED, March 29, 2018, <https://www.wired.com/story/the-paradox-of-universal-basic-income/> (“an affordable UBI is inadequate, and an adequate UBI is unaffordable”).

²⁰ See, e.g., *Basically Unaffordable*, ECONOMIST, May 23, 2015, <https://www.economist.com/finance-and-economics/2015/05/23/basically-unaffordable> (arguing that “basic income” is “basically unaffordable”).

²¹ Experts warn that UBI programs could lead to an economic “death spiral” because “voluntary unemployment would rise rapidly,” and this “would in turn raise the tax burden on workers needed to fund the payout, encouraging more people to drop out of the workforce.” David Floyd, *The Long, Weird History of Basic Income – And Why It’s Back*, INVESTOPEDIA, May 30, 2017, <https://www.investopedia.com/news/history-of-universal-basic-income/>, citing Alice Fabre et al., Working Paper: *Universal Basic Income versus Unemployment Insurance*, FED. RESERVE BANK OF ST. LOUIS, Nov. 2014, <http://research.stlouisfed.org/wp/2014/2014-047.pdf>

²² Tim Vlandas, *The Politics of Universal Basic Income (UBI)*, LSE NEW EUROPEAN TRADE UNIONS FORUM, March 7, 2018, <http://blogs.lse.ac.uk/netuf/2018/03/07/the-politics-of-universal-basic-income-ubi/> (stating that the politics of UBI are tricky because both advocates and detractors are “located across the ideological spectrum”).

The paper proposes a radically-novel type of basic income program that is designed to avoid the common weaknesses of previous proposals. It proposes a VAT-based redistribution system that eliminates poverty,²³ self-corrects against disincentives to work,²⁴ is deficit-neutral,²⁵ does not require an unprecedentedly-high tax rate,²⁶ self-corrects against inflationary or deflationary spirals and smooths out the business cycle,²⁷ and incentivizes co-parenting and replacement-level population growth.²⁸ The program is also specifically designed to appeal to principled opponents of redistribution.²⁹

Part I of this article lays out the three main objectives that any basic income proposal must meet. It asserts that a program must be: (1) adequate, in that it actually provides a basic income, (2) sustainable, in that it is affordable and has safeguards against partisan subversion, debt financing, voluntary unemployment, inflationary/deflationary spirals, and economic/demographic distortions, and (3) just, in that it aligns with a nation's moral and economic values. Regarding the third objective, this paper is authored by an American scholar and targeted towards an American audience, so this Part will assert that a U.S. redistribution program must be able to "justify" itself according to America's Classical Liberalism tradition.

Part II proposes that the United States adopt a constitutional amendment to impose a 20% value-added tax, and deposit the VAT revenue into a common fund at the start of each fiscal quarter. Simultaneously with the deposit, the government will issue 90-92 (equal to the number of days in the upcoming quarter) unvested shares of the fund to every adult citizen (parents of minor children will be entitled to receive additional shares). Over the course of the

²³ See *infra* notes 99-100 and 104 and accompanying text.

²⁴ See *infra* note 98 and accompanying text.

²⁵ See *infra* note 97 and accompanying text.

²⁶ See *infra* note 96 and accompanying text.

²⁷ See discussion *infra* Part III.D.

²⁸ See discussion *infra* Part III.G.

²⁹ See discussion *infra* Part I.C.

quarter, one unvested share will vest each day, and the holder can then redeem the vested share for an amount of cash equal to the balance of the fund divided by the total number of outstanding shares.

Part III explains the rationales behind each feature of the program. The three most important rationales discussed in this section are that (1) redistribution of a 20% VAT would fulfill all three basic income objectives (adequacy, sustainability, and justifiability), (2) the “share” system will have a powerful stabilizing effect on the economy, which is of crucial concern when dealing with a program of this scale, and (3) allowing two custodial parents to receive shares on behalf of a single child will provide a much-needed incentive for separated parents to seek, and courts to award, shared custody of children.

I. OBJECTIVES

A basic income program must fulfill three simple but highly-challenging objectives. The program must be (1) adequate, (2) sustainable, and (3) just. This Part will address each of these objectives in turn.

The reader should be warned that this theoretical groundwork section is quite long (16 pages), and be advised to skip ahead to Parts II (p. 22) and III (p. 23) if pressed for time or if interested only in the specifics of the UBI system proposed by this paper.

A. An Adequate Program

An adequate basic income program is one that provides a basic income. If we define an “adequate” income as one that provides an income at the poverty cutoff level, then all the public pilot programs implemented thus far have failed to meet the adequacy objective. Scotland, Finland, and Italy have run trial programs offering qualifying citizens around €500 per month. While this is certainly better than nothing, it is not sufficient to raise recipients above their respective national poverty levels.

A basic income program in the United States would need to ensure that all citizens have an annual income of over \$12,000 in order to lift them above the federal poverty level.³⁰ Such a program would, of course, be enormously expensive. Even if a basic income was not universal, but provided only to the 14% of Americans who live below the poverty level, the cost of this modestly-ambitioned program would exceed half a trillion dollars annually.

But the cost of an “adequate” income program, while high, is not necessarily insurmountable. For example, the Social Security program has an annual budget of over \$1 trillion, and total U.S. welfare spending is almost \$4 trillion per year. Some experts argue that “an affordable UBI is inadequate, and an adequate UBI is unaffordable,”³¹ but if the U.S. were to redirect most of its existing welfare spending towards a UBI program, it would be possible to afford a quite generous basic income for every citizen.³²

In regard to the adequacy / affordability dilemma, the greatest challenge may lie not in finding the right balance, but in preventing politicians from upsetting that balance. Some politicians will seek to “define poverty up” to the point where basic income becomes unaffordable, and some will seek to “define poverty down” to the point where basic income becomes inadequate. To protect against this, the payment should, like Social Security payments, be an entitlement that is calculated by law, not budgeted at Congress’s discretion as part of its yearly appropriations horse-trading.

³⁰ United States Department of Health and Human Services, *Federal Poverty Level (FPL)*, <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/> (stating that the 2018 federal poverty level for individuals is \$12,140).

³¹ Ito, *supra* note 19.

³² The Mises Institute, an Austrian economics think tank, states that 28% of U.S. GDP is either directly or indirectly redistributed by the government. Ryan McMaken, “*Social Expenditures in the US Are Higher Than All Other OECD Countries, Except France*,” MISES INSTITUTE, Oct. 30, 2015, <https://mises.org/blog/social-expenditures-us-are-higher-all-other-oecd-countries-except-france>. A basic income equal to 28% of per capita GDP (\$62,000+ in 2018) would be over \$17,000, which is well above the federal poverty line (\$12,140 in 2018).

B. A Sustainable Program

Perhaps the paramount obstacle basic income programs face is long-term fiscal sustainability. This is not necessarily because BI programs come with a high price tag (after all, the Social Security program, despite its massive cost, is now in its 83rd year). Rather, it is because a basic income program could wreck havoc on monetary policy.

Some experts warn that a UBI program could lead to an economic “death spiral.” Under this scenario, “voluntary unemployment would rise rapidly,” and this “would in turn raise the tax burden on workers needed to fund the payout, encouraging more people to drop out of the workforce.” Employers would have to raise wages to entice workers back into the workforce, and then pass the cost on to consumers in the form of higher prices. The self-perpetuating cycle would result in hyperstagflation.³³

Alternatively and counter-intuitively, a UBI program also carries a risk of deflation. First of all, the government is likely to scrap the minimum wage, Social Security contributions, and other employer mandates, since UBI payments will render them redundant. The resulting lower cost of labor could have deflationary effects.

Secondly, those who stop working to live off of UBI benefits will have more free time to engage in DIY projects, in-kind transactions, and informal consumer-to-consumer transactions. Consumers may be especially motivated to operate in the shadow economy to

³³ Pavlina Tcherneva, *Universal assurances in the public interest: evaluating the economic viability of basic income and job guarantees*, 2 INT. J. ENVIRONMENT, WORKPLACE AND EMPLOYMENT 69, 76 (2006) (“In order to coax [UBI] recipients back into the labour market, employers will need to offer higher wages (which, at first approximation, is a desirable result). However, soon thereafter, these same employers will also raise prices, to cover the increases in wage costs. As a consequence, rising prices will erode the purchasing power of the [UBI] payment, which will affect particularly those recipients who did not return to the labour market. To maintain the objective of the universal guarantee and provide just levels of standard living, there will be pressure to revise the [UBI] benefit upward. If this happens it will further induce some exit from the labour market, drop in output, a compensatory rise in wages and prices and further drop in [UBI] purchasing power. This vicious cycle renders the income guarantee self-defeating. Note that, if the benefit is continually increased -- the income guarantee becomes not just inflationary, but hyperinflationary.”).

avoid the heavy taxes imposed to finance the basic income program. Businesses will have to cut prices to compete with the underground economy, which could lead to deflation.

Finally, a UBI program could accelerate the automation trend. If taxes increase and low-skilled laborers drop out of the workforce, businesses will feel even greater pressure to cut costs through automation. Automation has already been a major contributor to deflation in the cost of goods, but this trend could become more pronounced if a UBI entitlement is enacted.

To avoid these monetary “unknown-unknowns” that a tax-and-redistribute program could cause, Congress will be tempted to resort to money printing to finance basic income payments. This could cause its own host of problems, such as chronic high inflation and dollar destabilization. It could also set Congress on an irreversible monetary policy course, as it would be hard to get off this quantitative easing treadmill once it starts rolling.

A UBI program, therefore must be designed with these monetary challenges in mind. It must have checks and balances against voluntary unemployment, falling tax revenue, and inflation / deflation.

C. A Justifiable Program

A third challenge for basic income programs (at least in the United States) is that Americans are famously skeptical of redistributive programs.³⁴ As the *New Yorker* has observed, “[r]edistribution has always been a tough sell” in the United States. Even though support for a basic income program surged in the aftermath of the Great Recession, a poll taken earlier this year found that a majority of Americans still oppose the notion of basic income.³⁵

American opposition to redistribution has complex roots. Part of that opposition stems from the recent, half-century long struggle with the USSR, when America distinguished itself

³⁴ See, e.g., *American taxes are unusually progressive. Government spending is not*, *ECONOMIST*, Nov. 23, 2017 (“Americans are not known for their love of income redistribution.”).

³⁵ Annie Nova, *More Americans now support a universal basic income*, *CNBC*, Feb. 26 2018, <https://www.cnbc.com/2018/02/26/roughly-half-of-americans-now-support-universal-basic-income.html>.

from the communist regime by emphasizing capitalism as one of the core features of national identity. Even before the Cold War, the American ideal of the rugged, self-reliant frontiersman had solidified itself in the national consciousness. It would be inconceivable for Americans to imagine Davy Crockett or Grizzly Adams buying groceries at Wal-Mart with an EBT card.

But perhaps the deepest, most powerful source of opposition to redistribution is the 300-year old influence of Classical Liberalism in Anglo-American thought.³⁶ The writings of John Locke, in particular, have had such a “profound influence”³⁷ on American identity that they not only shape “American political culture,” “political institutions, and economic policies,” but even exert an influence over American pop culture.³⁸ Due to Classical Liberalism’s strong emphasis on private property rights, many Americans instinctively bristle at the idea of property being seized by the state and redistributed.

If a basic income program is to have any hope of passage in the United States, it must be designed in a way that makes it philosophically-palatable to the economic conservatives who dominate American politics. American proponents of basic income should be prepared to justify their proposals under the principles of Classical Liberalism. To understand how such a justification could be made, we will now examine what Locke wrote about redistribution.

³⁶ See, e.g., PATRICK M. GARRY, LIBERALISM AND AMERICAN IDENTITY 49 (1992) (noting that “eighteenth-century classical liberalism exerted a special influence in America”); Fred Argy, *Choosing Between Classical Liberalism and Social Liberalism*, 25 POLICY 14, 15 (2009) (noting that classical liberals are generally “skeptical” of redistribution as a means of reducing inequality).

³⁷ OREN M. LEVIN-WALDMAN, RECONCEIVING LIBERALISM: DILEMMAS OF CONTEMPORARY LIBERAL PUBLIC POLICY 7 (1996) (recognizing the “profound influence that Locke has had on American political culture and the nature of American politics”).

³⁸ PAUL ARTHUR CANTOR, THE INVISIBLE HAND IN POPULAR CULTURE: LIBERTY VS. AUTHORITY IN AMERICAN FILM AND TV xiii (2012) (“It does not matter whether individual movie directors or television producers have read Locke if he helped shape the America that they deal with in their works.”).

1. Justifications for redistribution under Classical Liberalism

As already noted, American Classical Liberalism is of the Lockean school. Locke is considered one of history's greatest champions of private property,³⁹ the "father of classical liberalism," and has even been called the "unofficial Founding Father of the U.S. Constitution."⁴⁰ If a basic income program can justify itself under Lockean principles, American economic conservatives will be less likely to oppose it on ideological grounds.

Locke identified three situations where wealth redistribution would be justified. These exceptions to private property rights are known as the "Lockean Provisos." We will discuss each of these three Provisos in turn, and how they might justify a basic income program.

a. Indigency. Locke believed that the moral obligation to provide "sustenance" to the destitute constitutes a limitation on property rights.⁴¹ "As Justice gives every Man a Title to the product of his honest Industry," Locke argued, "so Charity gives every Man a Title to so much out of another's Plenty, as will keep him from extream want, where he has no means to subsist otherwise."⁴² This limitation has been described as the "Sustenance Proviso."

A basic income program designed to eliminate involuntary poverty, therefore, would be consistent with Classical Liberal thought. Experience shows, however, that while programs of this type may be sound in principle, they are hard to implement in practice. How does one define "involuntary" poverty in a way that prevents the program from being abused by those who have the means to support themselves? How does one define "extream want" in a way that prevents politicians from "defining poverty up"? How does one provide assistance to the needy without creating disincentives to work?

³⁹ GOTTFRIED DIETZE, IN DEFENSE OF PROPERTY 53 (1995).

⁴⁰ Elizabeth Purdy, *John Locke*, in RODNEY P. CARLISLE, ENCYCLOPEDIA OF POLITICS 286 (2005).

⁴¹ Jeffrey M. Gaba, *John Locke and the Meaning of the Takings Clause*, 72 MO. L. REV. 525, 538 (2007) ("One acquired property with a limitation that the owner must provide resources to other humans in extreme need.").

⁴² JOHN LOCKE, SECOND TREATISE OF CIVIL GOVERNMENT ¶42 (1690).

Aside from these administrative problems, the Sustenance Proviso, by itself, would not provide philosophical justification for a universal basic income program. The Sustenance Proviso gives only a “needy brother a right to the surplusage of [another brother’s] goods,”⁴³ so only redistribution that is necessary to eliminate involuntary poverty is justified under this exception to private property rights. To find a justification for universal basic income, we must turn our search to the two other Lockean Provisos.

b. Insufficiency. Ironically, considering how he is known as history’s greatest private property theorist, Locke argued that land and natural resources are collectively-owned. Locke believed that “God gave the world to men in common,” and that an individual may privately appropriate land or resources from the commons only if “enough and as good” is left over for others. This exception to private property is known as the “Sufficiency” or “Enough and as Good” Proviso.

As a corollary to the Enough and as Good Proviso, Locke recognized state sovereignty over land and resource apportionment in highly-populated, economically-developed nations.⁴⁴ “In land that is common in England,” he wrote, “or any other country, where there is plenty of people under government, who have money and commerce, no one can inclose or appropriate any part, without the consent of all his fellowcommoners.”⁴⁵ This societal consent is necessary in a populated territory where available land and natural resources are scarce, because the fellowcommoners, as collective owners of the commons, are entitled to oversee the allocation of land and resources in order to ensure that the Enough and as Good Proviso is honored.⁴⁶

⁴³ *Id.* (emphasis added).

⁴⁴ *Id.* at ¶ 50 (“[I]n Governments, the Laws regulate the right of property, and the possession of land is determined by positive constitutions.”).

⁴⁵ *Id.* at ¶ 35.

⁴⁶ *Id.* (“[T]he remainder, after such inclosure, would not be as good to the rest of the Commoners as the whole was, when they could all make use of the whole: whereas in the beginning and first peopling of the great Common of the World, it was quite otherwise.”).

The Anglo-American legal tradition recognizes the collective ownership of land.⁴⁷ Echoing Locke's "consent of the fellowcommoners" theory, the U.S. Supreme Court has held that land is "to be divided and parceled out according to the will of the society, expressed by the whole body or by that organ which is authorized by the whole to express it."⁴⁸ Eminent domain is an example of this theory in action.⁴⁹

The "philosophical underpinnings" of American social welfare spending are also grounded in the theory that land and natural resources are collectively owned.⁵⁰ The American welfare state has its origins in *Agrarian Justice* by Thomas Paine, a prominent Founding Father⁵¹ who is also considered the "father of Social Security."⁵² *Agrarian Justice* is not only one of the earliest "distributive justice" treatises ever written, but it is also by far the most impactful (taking into account that it inspired Social Security, the most successful

⁴⁷ See *Johnson v. M'Intosh*, 21 U.S. 543, 579 (1823) (noting that in the American colonies, "the right to the soil was not vested in individuals, but remained in the Crown or was vested in the colonial government, [and] the King claimed and exercised the right of granting lands and of dismembering the government at his will." The Court went on to hold that "United States [has] unequivocally acceded to that great and broad rule[. . .] All our institutions recognise the absolute title of the crown subject only to [property rights granted to subjects,] and recognise the absolute title of the crown to extinguish [those] right[s]."). *Johnson* is considered "the genesis of [American property law] because it lays 'the foundations of landownership in the United States.'" STUART BANNER, *HOW THE INDIANS LOST THEIR LAND: LAW AND POWER ON THE FRONTIER* 11 (2005).

⁴⁸ *Johnson*, 21 U.S. at 595.

⁴⁹ The meaning of the phrase *dominium eminens* is "a supreme ownership considered to reside in the Sovereign or State over all property in its Territory." EDWIN CHARLES CLARK, *HISTORY OF ROMAN PRIVATE LAW: PART II JURISPRUDENCE VOL. II* 588 (1914). Several state courts have explained that the doctrine of eminent domain rests on state retention of ultimate ownership of land. See, e.g., *Moore v. Byrd*, 23 S.E. 968, 969 (N. Carolina 1896) ("[T]he state [has] the ultimate title to the soil (as is shown by the doctrines of eminent domain and escheats).").

⁵⁰ John D. Wong, *Federal Payroll Taxes, Pensions and Health Care*, in *HANDBOOK ON TAXATION* 616 (W. Bartley Hildreth ed., 1999) (crediting Thomas Paine for laying the theoretical foundations for American social welfare).

⁵¹ Some consider Paine to be the most important, or even the singular, Founding Father. See, e.g., Brian McCartin, *Thomas Paine: Giving Cause for America and Freedom to Mankind*, in ELSIE BEGLER, *THOMAS PAINE: COMMON SENSE FOR THE MODERN ERA* 61 (2007) (describing Paine as "America's pre-eminent Founding Father"); JOSEPH M. HENTZ, *THE REAL THOMAS PAINE* 24 (2010) ("Thomas Paine was the original 'Founding Father'. Credit Paine as being first among peers, if you will, but when prejudice, bigotry and predilection are cast aside, I believe that Thomas Paine will be recognized as the original, stand alone, founder and creator of the United States. In or out of context, John Adams was right when he said history is to ascribe the American Revolution to Thomas Paine.").

⁵² BERNARD VINCENT, *THE TRANSATLANTIC REPUBLICAN: THOMAS PAINE AND THE AGE OF REVOLUTIONS* 125 (2005). In recognition of Paine's influence on the program, the Social Security Administration's website displays a painting of Paine holding up *Agrarian Justice* as the banner image for its "Early Key Documents" page. U.S. Social Security Administration, *Social Security History*, <https://www.ssa.gov/history/> (last visited June 19, 2016).

redistribution program ever devised).⁵³ In his treatise, Paine proposes a tax-funded pension that is philosophically-based on Lockean notions of collective land ownership.

Paine, like Locke, argued that private land ownership constitutes a taking from the commons. Paine argued that the public is entitled to “an indemnification for that loss.” Every private land owner, he asserted, “owes to the community a groundrent (for I know of no better term to express the idea) for the land which he holds.” Paine characterizes this groundrent payment as an entitlement, boldly declaring that “in advocating the case of the persons thus dispossessed, it is a right, and not a charity, that I am pleading for.”⁵⁴

Paine concluded by proposing that this “groundrent” be used “[t]o create a National Fund, out of which there shall be paid to every person, when arrived at the age of twentyone years, the sum of fifteen pounds sterling, as a compensation in part, for the loss of his or her natural inheritance.”⁵⁵ The fund would also pay an annual ten-pound pension to seniors over the age of fifty, a proposal that would provide the inspiration for Social Security more than a century later. Paine’s National Fund is considered one of the earliest proposals for a universal basic income.⁵⁶

Paine’s plan did not gain much traction during his lifetime. By the time he wrote *Agrarian Justice*, Paine’s influence had greatly waned. His criticism of President Washington and his promotion of deism in *The Age of Reason* had rendered him a political outcast, and his redistribution treatise was ignored for almost a century.⁵⁷

⁵³ DUN’S BUSINESS MONTH, VOL. 120 xix (1982).

⁵⁴ THOMAS PAINE, AGRARIAN JUSTICE 7 (1797).

⁵⁵ *Id.* (emphasis added).

⁵⁶ Josh Martin, *Sean Monahan, “Reading Paine from the Left,”* BIEN, March 18, 2015, <https://basicincome.org/news/2015/03/sean-monahan-reading-paine-left/> (“Many interpret Paine as one of the first supporters of basic income.”).

⁵⁷ CENTER FOR THE STUDY OF THE AMERICAN CONSTITUTION, FOUNDER OF THE MONTH – NO. 9: THOMAS PAINE 2 (2014) (“Disillusioned, Paine published a scathing attack on President Washington for not acknowledging him as an American citizen. Paine’s two-part *Age of Reason*, which attacked established religion, was also published at this time. These two publications made Paine an outcast.”).

But in 1879, the economist Henry George revived the ideas laid out in *Agrarian Justice*.⁵⁸ Incorporating Paine’s Lockean thesis that land and natural resources are collectively-owned while labor and capital are privately owned, George argued that a “tax upon land values is, therefore, the most just and equal of all taxes.”⁵⁹ He proposed replacing all taxes with a single tax on land value, which, he argued, would provide for all government expenses, including (echoing Paine) a universal pension and a surplus that would be divided per capita.⁶⁰

George’s proposals were enormously popular and influential. The publication of George’s book *Progress and Poverty* “is often marked as the beginning of the Progressive Era,”⁶¹ and his ideas inspired countless Progressive Era and New Deal reforms.⁶² The Georgian theory of groundrent entitlement is a now-largely-overlooked but still foundational principle of the modern American welfare state.

A universal basic income program designed to distribute “groundrent” would be acceptable under general Classical Liberalist theory. It would also be perfectly consistent with the traditional American justification of welfare spending. In the Locke-Paine-George tradition, every citizen, as a joint-owner of the commons, is entitled to their share of the nation’s “groundrent.”

For a UBI program designed to appeal to the American electorate, it is very helpful that groundrent is a verifiably non-Marxist type of redistribution. Marx himself denounced groundrent distribution as “Capitalism’s last ditch.”⁶³ Marx viewed groundrent distribution as

⁵⁸ WILLIAM HARLAN HALE, *THE MARCH OF FREEDOM: A LAYMAN'S HISTORY OF THE AMERICAN PEOPLE* 186 (1947) (stating that 1879 was the year “that brought us Henry George’s *Progress and Poverty* — a tract that revived the spirit of Thomas Paine.”).

⁵⁹ HENRY GEORGE, *PROGRESS AND POVERTY* 299 (Cosimo 2006).

⁶⁰ KENNETH C. WENZER, *OUR LAND & LAND POLICY: SPEECHES LECTURES, AND MISCELLANEOUS WRITINGS BY HENRY GEORGE* 151-56 (1999).

⁶¹ MICHAEL C. ANDERSON, *THE PROGRESSIVE GENE* 105 (2017).

⁶² ROBERT E. WEIR, *WORKERS IN AMERICA: A HISTORICAL ENCYCLOPEDIA*, VOLUME 1 293 (2013).

⁶³ STEVEN B. CORD, *HENRY GEORGE: DREAMER OR REALIST?* 201 (1965).

an unacceptable compromise with capitalism, as it recognizes communal ownership only of land, while Marxism endorses the communal ownership of all three factors of production (land, labor, and capital).⁶⁴

The revenue for “groundrent” payments does not necessarily have to come from a literal land tax. As both Locke⁶⁵ and Marx⁶⁶ observed, if one traces it back far enough, all economic activity—even in our post-agricultural, information-based economy—is ultimately derived from the soil (for example, even a programmer in a Silicon Valley cubicle needs calories from soy to fuel himself). A tax on general economic activity could be employed to capture the percentage of productivity attributable to private appropriation of the commons.

So what percentage of economic productivity is attributable to commonly-owned natural resources, and what percent is attributable to private labor? Locke believed that between 90-99% of what we now call GDP is attributable to labor, and only 1-10% is attributable to natural productivity.⁶⁷ The percentage that today’s scholars attribute to natural resources is a bit higher than Locke’s (perhaps due to the importance of fossil fuel to the modern economy); current estimates hold that natural resources account for around 20% of U.S. GDP.⁶⁸

⁶⁴ *The CPSU’s Tasks In Perfecting Socialism And Making A Gradual Transition To Communism*, in PROGRAM OF THE COMMUNIST PARTY OF THE SOVIET UNION, 27TH CONGRESS, 1986 – PART TWO, available at <http://eurodos.home.xs4all.nl/docu/cpsu-texts/cpsu86-21.htm> (“In the highest phase of communism the directly social character of labor and production will become firmly established.”).

⁶⁵ Locke, *supra* note 42, at ¶27 (stating that private appropriation of the common’s natural resources occurs when one “mixe[s]” his labor with the common resources).

⁶⁶ KARL MARX, CAPITAL: A CRITIQUE OF POLITICAL ECONOMY 30 (Moore & Aveling trans., Progress Pub. 2016), available at <https://www.marxists.org/archive/marx/works/download/pdf/Capital-Volume-I.pdf>. See also *id.* at 47 (“It is as clear as noon-day, that man, by his industry, changes the forms of the materials furnished by Nature, in such a way as to make them useful to him. The form of wood, for instance, is altered, by making a table out of it. Yet, for all that, the table continues to be that common, every-day thing, wood.”)

⁶⁷ Locke, *supra* note 42, at ¶40 (“I think it will be but a very modest computation to say, that of the products of the earth useful to the life of man nine tenths are the effects of labour: nay, if we will rightly estimate things as they come to our use, and cast up the several expences about them, what in them is purely owing to nature, and what to labour, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of labour.”).

⁶⁸ Fred E. Foldvary, *Geo-Rent: A Plea to Public Economists*, 2 ECON. J. WATCH 106, 123 (2005) (stating that several studies independently conducted “put geo-rent at around 20 percent of GDP”). Research from Australia, which has land tax data that is conducive for geo-rent estimates, provides a similar number. GAVIN R. PUTLAND, ECONOMIC RENT OF LAND AS A FRACTION OF AUSTRALIAN GDP (2013).

The taxation and redistribution of 20% of U.S. GDP would, therefore, be consistent with Locke's Sufficiency Proviso. The American People collectively own the nation's land and natural resources, and roughly 20% of economic productivity is attributable to the natural bounty of the commons. The distribution of "groundrent" would ensure that "enough, and as good, [is] left in common for others"⁶⁹ after the commons have been privately appropriated.

c. Inefficiency. Under Locke's "Spoilage Proviso," one may not "ingross as much as he will" from the commons, but only as much as he or she can actually "enjoy" or make practical use of.⁷⁰ "God has given us all things richly,⁷¹" Locke stated,

But how far has he given it us? To enjoy. As much as any one can make use of to any advantage of life before it spoils, so much he may by his Labour fix a property in: whatever is beyond this, is more than his share, and belongs to others.⁷²

The Spoilage Proviso is "out of favor with many of Locke's commentators,"⁷³ with some going so far as to call it the "ugly step-sister of the enough and as good condition."⁷⁴ There is, however, an important distinction between the Enough and As Good Proviso and the Spoilage Proviso. The Enough and As Good Proviso "names a pre-production condition: I have an obligation not to take out too much, such that my use would impede the use of others, either now or in the future," while the Spoilage Proviso "names a post-production condition:

⁶⁹ Locke, *supra* note 42, at ¶27.

⁷⁰ *Id.* at ¶31 ("It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, &c. makes a right to them, then any one may ingross as much as he will. To which I answer, Not so. The same law of nature, that does by this means give us property, does also bound that property too.").

⁷¹ 1 Tim. 6:17 (King James Version). The full context of the scripture quoted by Locke, indeed, makes reference both to enjoyment and redistribution ("Charge them that are rich in this world, that they be not highminded, nor trust in uncertain riches, but in the living God, who giveth us richly all things to enjoy; That they do good, that they be rich in good works, ready to distribute, willing to communicate; Laying up in store for themselves a good foundation against the time to come, that they may lay hold on eternal life." *Id.* at 6:17-19 (emphasis added).

⁷² Locke, *supra* note 42, at ¶31 (emphasis added).

⁷³ The dismissal of Spoilage Proviso is mostly based on the argument that by "creating systems of currency, humans [can now] transform property into a form that would never spoil but could still be put to productive use in satisfying the wants of individuals." Gaba, *supra* note 41.

⁷⁴ Justin Hughes, *The Philosophy of Intellectual Property*, 77 GEO. L.J. 287, 325 (1988).

one has an obligation to return excess products of labor to the common, such that one actually increases the common stock.”⁷⁵

In regard to “enjoyment,” it could be argued that the Spoilage Proviso justifies progressive taxation and redistribution. Locke would probably not endorse the Reagan-Era phrase “he who dies with the most toys wins,”⁷⁶ but would rather hold that one has no right to hoard more wealth than is reasonably necessary to have an “enjoyable” life. Because one’s income/estate is, hedonistically-speaking, subject to the law of diminishing marginal utility, it could be argued that wealth is wasted on the rich, and thus the state is justified in taxing those who have more than enough to “enjoy” life and distributing the revenue to those who do not.⁷⁷

But in regard to “make use of,” it could be argued that the wealthy tend to be the most industrious of citizens; rising to their station in life precisely because they do not let their resources go to waste. Opponents of progressive taxes occasionally make arguments along these lines.⁷⁸ Indeed, the Spoilage Proviso could even be cited to justify taking resources away from those of modest means and giving it to wealthier individuals who could put it to more “efficient” use. Like the “man traveling to a far country” in the Parable of the Talents, a government following the Spoilage Proviso might declare that “to everyone who has, more will

⁷⁵ Gordon Hull, *Clearing the Rubbish: Locke, the Waste Proviso, and the Moral Justification of Intellectual Property*, 23 PUB. AFF. Q. 67 (2009) (this interpretation of the Spoilage Proviso is a minority position, but the author provides a convincing defense of his reading of Locke).

⁷⁶ Tom Toles, *He who dies with the most toys now loses!* WASH. POST, Oct. 24, 2016, <https://www.washingtonpost.com/news/opinions/wp/2016/10/24/he-who-dies-with-the-most-toys-now-loses/>.

⁷⁷ See, e.g., David A. Weisbach & Joseph Bankman, *The Superiority of an Ideal Consumption Tax over an Ideal Income Tax*, 58 STANFORD L. REV. 1413 (2006) (“[T]ransferring a dollar from the wealthy to the poor increases welfare because the marginal utility of that dollar to a wealthy person is likely to be lower than it is to a poor person. [...] Someone with a large trust fund is unlikely to value another dollar as much as someone working two jobs just to scrape by. Redistributing one dollar from the trust-fund baby to the working poor is likely to increase overall welfare. Paris Hilton very likely has a much lower marginal utility of money than someone slaving in the salt mines sixty hours a week to support his family. Redistribution from Paris Hilton to the worker makes sense.”).

⁷⁸ See, e.g., Herbert H. Denton, *Progressive Income Tax Is ‘Immoral,’ Meese Says*, WASHINGTON POST, May 8, 1982, <https://www.washingtonpost.com/archive/politics/1982/05/08/progressive-income-tax-is-immoral-meese-says/88e0d8c1-9e50-42c5-a242-5e7d197ba80e/> (quoting Regan White House counselor Edwin Meese III as stating, “I don’t think we should penalize someone because he’s successful”).

be given, and he will have abundance; but from him who does not have, even what he has will be taken away.”⁷⁹

Regardless of whether a Spoilage Proviso tax would be progressive or regressive, there is also the risk that the complexity of a Spoilage Proviso tax would end up defeating the very purpose it is intended to serve: to eliminate economic waste and inefficiency. For example, a Spoilage Proviso-inspired progressive income tax would require tax brackets and complicated exemptions for those who put their income to “productive” uses. This, of course, perfectly describes the existing American income tax code, which is so complicated that “Americans waste [6.1 billion hours] each year” navigating its “labyrinth of loopholes.”⁸⁰

A consumption tax is a more effective method of implementing the Spoilage Proviso than an income tax. It is generally accepted among economists that switching from an income tax to a consumption tax will result in a more efficient economy,⁸¹ not only because it is easier to administer, but also because it would “encourage savings and investment and discourage frivolous consumption.”⁸² In fact, after a massive “root and branch” review of tax policy, the

⁷⁹ Matthew 25:14-29 (New King James Version). The United States tax code clearly follows this logic, as it, for example, imposes a 25% income tax rate on a citizen who earns (and presumably will “inefficiently” spend) \$50,000 a year, then uses that revenue to subsidize a corporation that pays a 0% income tax rate because it “efficiently” reinvests its \$200 billion per year earnings. Craig M. Douglas, *The Amazon Effect: How taxpayers are funding the disruption of the U.S. economy*, Bus. J., Oct. 11, 2017, <https://www.bizjournals.com/bizjournals/news/2017/10/11/the-amazon-effect.html> (noting that taxpayers are “kicking in at least \$1.24 billion in taxpayer-funded subsidies and incentives that have fueled the company’s growth across the country. That figure does not include hundreds-of-millions of dollars in additional breaks from deals to phase in state sales taxes, nor does it include dozens of hard-to-quantify tax abatements and land arrangements struck with a mosaic of towns, counties and school districts along the way.”).

⁸⁰ *Simpler, fairer, possible*, ECONOMIST, July 13, 2013, <https://www.economist.com/leaders/2013/07/13/simpler-fairer-possible>.

⁸¹ C. Alan Garner, *Consumption Taxes: Macroeconomic Effects and Policy Issues*, ECONOMIC REVIEW, Q2 ECON. REV. - FED. RESERVE BANK OF KANSAS CITY 5 (2005) (“Most economists believe that switching to a consumption tax could increase saving and real output per person over the long run.”).

⁸² The Impact on Individuals and Families of Replacing the Federal Income Tax: Hearing before the Committee on Ways and Means, House of Representatives, One Hundred Fifth Congress, first session, April 15, 1997, 67.

Australian Treasury concluded that “[a] broad-based consumption tax is one of the most efficient taxes available to governments.”⁸³

Though it is more efficient than an income tax, the “Achilles Heel” of a consumption tax is that it is considered regressive,⁸⁴ “[s]ince the poor spend a greater share of their incomes on consumption than the rich.”⁸⁵ When Congress was seriously debating a replacement of the U.S. income tax with a consumption tax, opponents argued that such a change would lead to a “more efficient economy, [but] not a fairer one.”⁸⁶ In arguing against a consumption tax, a *New York Times* editorial asserted that “[t]he emphasis on efficiency tends to favor the rich.”⁸⁷

While most progressives support income taxes over consumption taxes on the grounds of fairness, there is one notable exception: John Rawls. The 20th century’s most prominent advocate of distributive justice concluded that a flat consumption tax “may be part of the best tax scheme.”⁸⁸ Rawls’ support of a consumption tax is “surprising” and “puzzling” because “Rawls’s broader conception of economic justice [...] manifests great concern for the least advantaged in society, and a flat, consumption-based tax is quite generous to the rich” as compared to progressive income or wealth taxes.⁸⁹

Fordham Law professor Linda Sugin gave several possible explanations for how a consumption tax might fit within the broader Rawlsian theory of distributive justice. First, she notes that though the poor generally spend a higher proportion of their income on consumption,

⁸³ DEPARTMENT OF THE TREASURY (AUSTRALIA), AUSTRALIA’S FUTURE TAX SYSTEM—FINAL REPORT 273 (2009) (citing OECD statistics in reaching its conclusion). *See, also, e.g.*, David A. Weisbach & Joseph Bankman, *The Superiority of an Ideal Consumption Tax over an Ideal Income Tax*, 58 STANFORD LAW REVIEW 1413 (2006).

⁸⁴ Len Burman, *A Progressive Consumption Tax?* FORBES, June 4, 2012, <https://www.forbes.com/sites/leonardburman/2012/06/04/a-progressive-consumption-tax/#55813f677c64>.

⁸⁵ Peter T. Kilborn, *Tax System: Efficiency vs. Fairness*, NEW YORK TIMES, Dec. 10, 1988, <https://www.nytimes.com/1988/12/10/business/tax-system-efficiency-vs-fairness.html>.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ JOHN RAWLS, A THEORY OF JUSTICE 246 (Harvard U. Press, revised ed. 2009).

⁸⁹ Linda Sugin, *Theories of Distributive Justice and Limitations on Taxation: What Rawls Demands from Tax Systems*, 72 FORDHAM L. REV. 1991, 1997 (2004).

“[e]ven a flat consumption-based tax raises more revenue from the rich than the poor” in absolute terms “because rich people can generally be counted on to consume more total goods and services than poor people consume.”⁹⁰ Second (and more important for our UBI discussion), she argued that “[i]f the proceeds of taxes collected are redistributed [...] then it matters little what the tax itself looks like because the spending side of the budget corrects or adjusts the distributional consequences overall.”⁹¹ She concludes that, “[f]rom an efficiency perspective, direct transfers may be the most desirable mechanism of redistribution.”⁹²

To summarize, a redistribution program that (1) encourages productive spending / investment, (2) discourages wasteful spending / frivolous consumption, and (3) directly transfers resources to those who will “enjoy” it the most (i.e., the poor) would satisfy the Spoilage Proviso. A basic income program that redistributes the proceeds of a consumption tax would best achieve those aims.

Part I Conclusion

To highlight the key takeaways from Part I: a basic income program should be (1) adequate, in that it provides an income that covers basic needs, (2) sustainable, especially in regard to safeguards against negative feedback loops, and (3) just, in that it should be compatible with America’s Classical Liberalist values. To fulfill the third objective, the program must (1) eliminate poverty, (2) provide Americans with the “groundrent” they are entitled to as owners of the “commons,” and/or (3) encourage more efficient consumer behavior by imposing a consumption tax, and ensure a more efficient allocation of resources by distributing the consumption tax revenue to the poor.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

II. PROPOSAL

To meet the objectives outlined in the previous section, this paper proposes that citizens receive a “dividend” (basic income) of “rent profits” (tax revenue) received from the “leasing of the commons” (permitting the private appropriation of land and natural resources; i.e., the recognition of property rights). Specifically, it proposes that the U.S. adopt a constitutional amendment to impose a universal 20% value-added tax, then deposit the VAT revenue into a common fund at the start of each fiscal quarter. Simultaneously with the deposit, the government will issue 90-92 (equal to the number of days in the upcoming quarter) unvested shares of the fund to every adult citizen (parents of minor children will be entitled to receive additional shares). Over the course of the quarter, one unvested share will vest each day, and the holder can redeem the share for an amount of cash equal to the balance of the fund divided by the total number of outstanding shares.

The full text of a model Citizen’s Dividend Amendment is as follows:

A. Model Amendment

1. A 20% value-added tax shall be imposed on all goods and services in the United States. At the start of each fiscal quarter, all revenue from this tax collected during the previous quarter shall be deposited into a common fund.
2. At the same time that the tax revenue is deposited, a number of nontransferable, unvested shares equaling:
 - a. the number of days in the new fiscal quarter shall be distributed to every citizen of the United States over the age of eighteen, and each day during the quarter, one unvested share so issued shall vest per citizen;
 - b. the number of odd-numbered days in the new fiscal quarter shall be issued to every natural or adoptive parent having shared or full custody of a child under the age of eighteen, and each odd-numbered day during the quarter, one unvested share so issued shall vest per parent; and
 - c. the number of days in the new fiscal quarter shall be issued to every natural or adoptive parent having shared or full custody of two or more children under the age of eighteen, and each day during the quarter, one unvested share so issued shall vest per parent.

3. After a share becomes vested, the holder may, through a purchase or cash withdrawal subject to taxation under §1, redeem the share for a dollar amount equal to the total amount of dollars in the fund divided by the total number of outstanding shares.
4. No more than two parents shall receive shares for an individual child.

III. RATIONALES

This section will explain, one-by-one, the rationales behind each clause of the Citizen’s Dividend Amendment.

A. A constitutional amendment

Any type of basic income program, from the most modest of means-tested programs to the most ambitious of entitlement programs, is going to require the movement of massive amounts of tax dollars. Lobbyists, politicians, and other DC “swamp creatures” will be irresistibly drawn to this springhead of wealth, seeking to divert its streams into the direction of their constituents. It is imperative, therefore, that a basic income system be soundly designed from the start, then enshrined in the Constitution to prevent Congress from tinkering with it.

Congress must not be given the power to carve out VAT exemptions for favored types of business transactions,⁹³ raise or lower the VAT rate, add revenue from other sources, divert funds to other projects like it does with Social Security revenue, make “cost of living” adjustments to the payments, or modify the program in any other way. As the following sections will show, each element of the Citizen’s Dividend is carefully designed to accomplish specific objectives. Any changes could undermine the overall integrity of the system.

⁹³ Lord Acton warned us that any type of power tends to corruption, but experience shows that the power of economic regulation seems more susceptible to corruption than other legislative powers. The inherently-competitive nature of the market creates an existential imperative for businesses to lobby for rule changes in their favor, and Congress is often all-to-happy to oblige in tilting the playing field. Congress is certain to carve exemptions out of the VAT like a Thanksgiving turkey if it is given the power to do so.

B. to impose a 20% VAT,

The 20% value-added tax is one of the most crucial elements of the Citizen's Dividend. A basic income program financed by a 20% consumption tax helps meet all three objectives discussed in Part I. It strikes a perfect balance between adequacy and affordability, ensures long term sustainability, and is philosophically-justifiable.

In regard to adequacy and affordability, the income provided by this plan (over \$1,000 per month at current population/GDP levels) would be more than double the amount of the European pilot studies mentioned in Part I, and even more than Y Combinator's private study that has been criticized as unrealistically generous.⁹⁴ But despite its generous benefits, the program is still affordable. The U.S. already spends approximately 20% of GDP on welfare,⁹⁵ so the Citizen's Dividend (assuming that it replaces most of the existing programs) would not require a substantial increase in welfare spending. Furthermore, a 20% VAT is a rather affordable tax rate, as it is lower than the average European consumption tax rate (22.1%).⁹⁶

Financing a basic income through a VAT tax would also help avoid sustainability problems associated with other basic income proposals. First of all, this is a pay-as-you-go system, so the program itself will not increase government debt.⁹⁷ In addition, voluntary unemployment would self-correct under a VAT-based redistribution program. If large numbers of recipients drop out of the workforce to live off basic income payments, the nation's GDP will shrink as a result of declining productivity. This in turn will lead to a decrease the size of

⁹⁴ Amy Graff, *Silicon Valley's Y Combinator to give people up to \$1,000 a month in latest basic income trial*, SF GATE, Sept. 21, 2017, <https://www.sfgate.com/news/article/basic-income-Y-Combinator-Oakland-money-free-12218570.php> (quoting Jason Furman, a Harvard Kennedy School professor and former chairman of the White House Council of Economic Advisers, as stating that "it's very hard to make the numbers add up. To get to (incomes) like \$12,000, you need huge increases in taxes").

⁹⁵ OECD, Social Expenditure - Aggregated data, https://stats.oecd.org/Index.aspx?DataSetCode=SOCX_AGG (stating that the United States spent 19.3% of GDP on public welfare expenditures in 2016).

⁹⁶ George Economides & Anastasios Rizos, *Optimal Taxation and the Tradeoff Between Efficiency and Redistribution*, 10 REV. ECON. ANALYSIS 2 (2018).

⁹⁷ The size of the VAT could, however, indirectly affect deficit spending by crowding out other types of taxes.

the VAT-financed payments, thereby incentivizing the voluntarily unemployed to reenter the workforce. This helps avoid the dreaded basic income “death spiral,” where rising voluntarily unemployment requires heavier income taxes on the dwindling number of individuals who stay in the workforce.⁹⁸

In regard to a “just” program, we established in Part I that an American redistribution program should be able to justify itself under at least one of the Lockean Provisos. Remarkably, the redistribution of a 20% value-added tax would fulfill all three of the Lockean Provisos.

First, it would satisfy the Indigency Proviso because basic income payments equating to 20% of per-capita GDP (which is what the Citizen’s Dividend would provide, in theory) would provide an income right at the federal poverty level. The 2018 U.S. GDP per capita is estimated to be around \$62,000,⁹⁹ so Citizen’s Dividend payments would total up to around \$12,400 in 2018. The 2018 federal poverty level is \$12,140,¹⁰⁰ so the program would provide an income that is 2% above the federal poverty level (fittingly, 2% is the current inflation rate).

Second, it would satisfy the “Sufficiency” Proviso, because a program that redistributes 20% of GDP would compensate Americans for their share of the “groundrent.” Several studies of “geo-rent” (the groundrent value of land and natural resources that Locke would consider commonly-owned) concluded that it “is about 20 percent of GDP” in the United States.¹⁰¹ Since the matter and energy that make up goods and services are ultimately derived from the commons, a 20% VAT is as theoretically-sound as a land tax in capturing groundrent.¹⁰²

⁹⁸ See *supra* note 33 and accompanying text.

⁹⁹ International Monetary Fund, GDP per capita, current prices, <http://www.imf.org/external/datamapper/NGDPDPC@WEO/DEU/USA> (last visited Aug. 19, 2018).

¹⁰⁰ U.S. Dept. Health & Human Services, Poverty Guidelines, <https://aspe.hhs.gov/poverty-guidelines> (last visited Aug. 19, 2018).

¹⁰¹ FRED E. FOLDVARY, THE ULTIMATE TAX REFORM: PUBLIC REVENUE FROM LAND RENT 11 (2006).

¹⁰² Thomas Paine and Henry George advocated for a land tax on the theory that the commons were being “rented” by property holders, with the nation continuing to hold allodial title. The VAT proposed in this paper also recognizes the people’s sovereign title to the nation’s land, but is analogous to “sharecropping” rent rather than the Paine/George fixed cash rent, as society receives a share of the land’s produce (the GDP).

Third, the redistribution of VAT revenue would undoubtedly be more consistent with Locke's "Spoilage Proviso" than the current income tax-financed welfare system. As discussed in Part I.C.1.c., consumption taxes are widely considered to be a more efficient type of tax. A VAT could also create a more efficient economy by changing consumer behavior.

C. deposit the VAT revenue into a common fund at the start of each quarter, and

We should pause here briefly to note the term "common fund." The Citizen's Dividend is a universal basic income proposal, because one of its justifications is to ensure that every citizen, as a common owner of the nation's land and resources, receives their share of the nation's "groundrent." Since the program is not solely aimed at poverty-alleviation, there is no need for clawback mechanisms or means-testing.

D. simultaneously issue 90-92 nontransferable, unvested fund shares to adult citizens,

The issuance of "shares" of the fund is critical to ensuring the fiscal sustainability of the program. Even though a basic income program funded through a consumption tax will carry a lower risk of stagflation than a program funded through income taxes, debt, or money printing, there are still lingering risks that the program could cause economic disruptions.

For example, the cost of this program, even if it replaces most other forms of welfare spending, is still likely to raise overall government spending, possibly generating inflation. The new payments will generate consumer demand, but this will be at least partially offset by the new VAT. The new consumption tax will cause a temporary spike in inflation, as prices will rise by 20%, but in the long term it could have a deflationary effect, as heavy taxation of goods and services could lower demand.¹⁰³

¹⁰³ See, e.g., Brad W. Setser, *Japan's First Consumption Tax Hike Was a Demand Disaster*, COUNCIL ON FOREIGN RELATIONS, June 2, 2016, <https://www.cfr.org/blog/japans-first-consumption-tax-hike-was-demand-disaster> (describing how Japan's consumption tax hike had a deflationary impact on the economy).

The use of “shares” provides a solution to these monetary policy challenges. Under the shares system, consumer spending is incentivized during periods of recession/deflation, and consumer saving is incentivized during periods of growth/inflation. These incentives will smooth out the business cycle, helping to correct both inflationary and deflationary trends.

For example, imagine the following scenario: suppose that the VAT goes into effect in the fourth quarter of 2018, and \$1 trillion in VAT revenue is collected during that quarter. On Jan. 1, 2019, the \$1 trillion is deposited in the common fund. Simultaneously with the deposit, 90

Beginning balance	\$0.00
Tax revenue deposit	+ \$1,000,000,000,000
Total balance	\$1,000,000,000,000
US citizen population	300,000,000
New shares issued per citizen*	x 90
Total new shares	27,000,000,000
Outstanding shares	+ 0
Total shares	27,000,000,000
Total balance	\$1,000,000,000,000
Total shares	÷ 27,000,000,000
Redeemable value per share	\$37.04

*90 days in quarter

shares (representing one share for each day in the first quarter of 2019) are issued to 300,000,000 American citizens, for a total of 27 billion new shares. Each share has a redeemable value of \$37.04 (or \$1 trillion divided by 27 billion) (see Table 1).

Now, suppose that the new program creates strong economic growth and/or inflation. In the middle of Q1, economists project that the government will collect \$1.05 trillion in VAT revenue during Q1. Suppose it is also projected that the number of recipients will increase by 1 million, and that 10% of shares

Beginning balance	\$100,000,000,000
Tax revenue deposit	+ \$1,050,000,000,000
Total balance	\$1,150,000,000,000
US citizen population	301,000,000
New shares issued per citizen*	x 91
Total new shares	27,391,000,000
Outstanding shares	+ 2,700,000,000
Total shares	30,091,000,000
Total balance	\$1,150,000,000,000
Total shares	÷ 30,091,000,000
Redeemable value per share	\$38.21

*91 days in quarter

issued in Q1 will still be unredeemed by the start of Q2. Under this projection, after the Q1

revenue is deposited in the fund and new shares are issued at the beginning of Q2, the redeemable value per share will rise from \$37.04 to \$38.21 (see Table 2).

Imagine that a citizen named Joe still has all 90 of his Q1 shares during the middle of Q1, when the Q2 projection is announced. At \$37.04, the total value of Joe’s shares will be worth \$3,334 if he redeems them all in Q1. But if he waits to redeem them in Q2, the value of Joe’s shares will jump over \$100 to \$3,439.

Joe will thus have an incentive to wait to redeem his shares until after the Q2 recalculation, because the redeemable value per share is expected to increase. This incentive to save rather than spend will help slow down the overheated economy / rapid inflation.

Finally, imagine that instead of 5% growth/inflation, GDP is projected to decline 5% in Q1. VAT revenue is expected to be only \$950 billion during Q1. Under this projection, after the Q1 revenue is deposited in the fund and new shares are issued, the redeemable value per share will drop from \$37.04 to \$34.89 (see Table 3).

Table 3

Q2, 2019 (Recession Cycle)

Beginning balance	\$100,000,000,000
Tax revenue deposit	+ \$950,000,000,000
Total balance	\$1,050,000,000,000
US citizen population	301,000,000
New shares issued per citizen	x 91
Total new shares	27,391,000,000
Outstanding shares	+ 2,700,000,000
Total shares	30,091,000,000
Total balance	\$1,050,000,000,000
Total shares	÷ 30,091,000,000
Redeemable value per share	\$34.89

*91 days in quarter

Imagine again that Joe still has all 90 of his Q1 shares during the middle of Q1, when the Q2 projection is announced. At \$37.04, Joe’s shares will be worth \$3,334 if he redeems them in Q1. But if Joe waits until Q2 to redeem his shares, the value will drop almost \$200 to \$3,140.

When Joe learns of the disappointing economic forecast, he will have an incentive to redeem his shares before the Q2 recalculation, because the redeemable value per share is expected to decrease. This incentive to spend will help perk up the lagging economy.

E. with 1 share vesting each day of the quarter, redeemable through taxed transactions.

Though citizens are issued an entire quarter's worth of shares at the start of each quarter, this is only to ensure that the redeemable value per share remains constant throughout the quarter. All shares are unvested when issued, and over the duration of the quarter, they vest at a rate of one share per day. The shares do not all vest at once because this program is partially a poverty prevention program. The program is designed to "give us this day our daily bread,"¹⁰⁴ and ensure that even the most spendthrift citizens have cash each day.

In regard to redeeming a vested share, the best option for doing this would be to provide a debit card that "redeems" shares when it is used to pay for items. Administering share redemption through payment cards can help ensure VAT tax compliance.¹⁰⁵ Blockchain technology might also provide a convenient accounting method for the share system.¹⁰⁶

Even if the government creates a digital infrastructure for share redemption, citizens should still be permitted to redeem their shares for physical cash. Though there are advantages to a cashless system (greater transparency, efficiency, convenience, etc.), there are also disadvantages. Cash provides privacy (and there are "plenty of legitimate reasons to want to purchase something more discreetly"¹⁰⁷), and cash can also be used "off-the-grid" (for example, in rural or disasters areas without a network connection).

But if a share is redeemed for cash, it is critical to apply the full 20% VAT rate on these transactions, hence the provision that "cash withdrawal" redemptions are "subject to taxation." If cash redemptions are untaxed, there will be no incentive to spend during deflationary cycles,

¹⁰⁴ Matthew 6:11 (KJV).

¹⁰⁵ For a discussion on how card payments help ensure tax compliance, see Susan Cleary Morse et al., *Cash Businesses and Tax Evasion*, 20 STAN. L. & POL'Y REV. 37, 50-51 (2009).

¹⁰⁶ For the latest news on blockchain technology and basic income, see BIEN, *Basic Income Topic: blockchain*, <https://basicincome.org/topic/blockchain/>.

¹⁰⁷ Yael Grauer, *I Tried To Shop Online Anonymously (And It Was A Pain In The Butt)*, FORBES, Jan. 21, 2016, <https://www.forbes.com/sites/ygrauer/2016/01/21/i-tried-to-shop-online-anonymously-and-it-was-a-pain-in-the-butt/>.

as citizens could simply redeem their shares for cash before the next quarterly adjustment and stockpile it rather than spend it. Another reason to tax cash redemptions is to ensure that cash that will likely make its way to the black market is taxed on at least one transaction.

F. A parent with custody of a child is entitled to an additional 45-46 shares per quarter.

A parent with physical custody of a child will be entitled to additional shares to help pay for the child's expenses. This entitlement reflects the belief that every person is entitled to replace themselves. It is also designed to help end the birthrate decline by encouraging citizens to fulfill their imperative to "replenish the earth."¹⁰⁸

One parent is entitled to only 45-46 shares per quarter, but both of a child's parents may receive shares on behalf of the child if they share custody of the child. This will provide a much-needed¹⁰⁹ incentive for separated parents to seek, and courts to award, shared custody of children.

Limiting the entitlement to natural or adoptive parents is designed to ensure that basic income payments do not end up subsidizing the institutionalization of children. Minority parents have long argued that states are too quick to place children in foster care, and now even white parents are raising the same complaints.¹¹⁰ In light of these concerns, the basic income

¹⁰⁸ Genesis 1:28 (KJV).

¹⁰⁹ Courts award sole physical custody to mothers in the vast majority of child custody cases, Solangel Maldonado, *Beyond Economic Fatherhood: Encouraging Divorced Fathers to Parent*, 153 U. PA. L. REV. 921, 966 (2005), with most studies showing that mothers have sole custody about 70 to 80 percent of the time. *Child Custody*, ENCYCLOPEDIA.COM, <https://www.encyclopedia.com/social-sciences-and-law/law/law/child-custody>. Although these decisions are ostensibly made "in the best interest of the child," research is revealing that awarding sole rather than joint custody is, generally speaking, not in the best interest of children. Linda Nielsen, *Joint versus sole physical custody: Outcomes for children independent of family income or parental conflict*, 15 J. CHILD CUSTODY 35 (2018) (reviewing 60 studies on parental custody arrangements and finding that joint physical custody "is generally linked to better outcomes for children" than sole physical custody). Despite state efforts at reform, it is still the norm for family courts to award sole custody to the mother when there is a custody dispute. Christy M. Buchanan & Parissa L. Jahromi, *A Psychological Perspective on Shared Custody Arrangements*, 43 WAKE FOREST L. REV. 419, 422 (2008). Many believe that this trend persists because judges allow outdated assumptions about parental gender roles to bias their decisions. *See, e.g.*, Douglas Dotterweich & Michael McKinney, *National attitudes regarding gender bias in child custody cases*, 38 FAM. CT. REV. 208 (2005) (finding that attorneys "perceive that mothers continue to be favored over fathers in custody cases").

¹¹⁰ Michelle Goldberg, *Has Child Protective Services Gone Too Far?* THE NATION, Sept. 30, 2015, <https://www.thenation.com/article/has-child-protective-services-gone-too-far/>.

program should avoid creating a possible moral hazard where putting children in foster care would provide basic income revenue for the state.

G. No parent is entitled to claim shares for more than two children.

While every person may be entitled to replace themselves, they are not entitled to more than that. A parent may receive shares for up to two children, reflecting the fact that it takes two children per individual to maintain a population, but they should not receive income for more than it takes to replace themselves. Capping the payment at two children also prevents people from bearing or adopting a large number of children as a moneymaking endeavor.

H. No more than two parents are entitled to claim shares for an individual child.

Allowing more than two parents to claim a single child for basic income payments would create a potential “tragedy of the commons” situation. American courts in a dozen states have already begun a trend of recognizing three parents.¹¹¹ If more than two parents could claim basic income payments for a child, states would have an incentive to recognize more than two parents in order to increase the amount of basic income dollars flowing into the state.¹¹²

¹¹¹ *Courts are recognizing three parents in some states*, NBC NEWS, Jun. 20, 2017, <https://www.nbcnews.com/feature/nbc-out/modern-family-more-courts-allowing-three-parents-one-child-n774031>.

¹¹² Preventing an abuse of resources is not the only reason we should limit benefits to two parents. “[S]ome courts and experts have raised qualms that more parents means more potential conflict,” *id.* and for good reason: research indicates that “[c]hildren residing in households with unrelated adults were nearly 50 times as likely to die of inflicted injuries than children residing with 2 biological parents” (this is a conservative estimate; other studies have concluded that the risk of being killed by a stepparent is well over 100 times higher than the risk from a genetic parent). Patricia G. Schnitzer & Bernard G. Ewigman, *Child Deaths Resulting From Inflicted Injuries: Household Risk Factors and Perpetrator Characteristics*, 116 PEDIATRICS 687 (2005); MARTIN DALY & MARGO WILSON, THE “CINDERELLA EFFECT”: ELEVATED MISTREATMENT OF STEPCHILDREN IN COMPARISON TO THOSE LIVING WITH GENETIC PARENTS 2 (2008). Households with more than two parent-figures are unusual in the United States, but not in polygamous parts of the world, and the troubles that plague polygamous families should deter us from experimenting with a similar sort of family structure. *See generally* Billy Gage Raley, *Polygamy In Family Court: A Resource For Judges Dealing With An Unfamiliar Family Structure*, 68 Juv. & Fam. Ct. J. 5 (2017); Billy Gage Raley, *The More Perfect Union: Monogamy and the Right to Marriage*, 19 GEO. J. GENDER & L. 455 (2018).

CONCLUSION

In summary, a citizen's dividend (the shares) of the profit (VAT revenue) derived from the rental of the commons (national GDP) would constitute an adequate, sustainable, and just basic income program. It would be:

1. adequate, as it would provide an income right at the poverty threshold;
2. sustainable, as it would be a pay-as-you-go, debt-free system, based on a fixed, affordable tax rate, and equipped with safeguards against voluntary unemployment, inflation/deflation, and economic/demographic fluctuations; and
3. just, as it would be philosophically-justifiable under America's traditional Classical Liberalist values, which hold that indigency, insufficiency, and inefficiency are valid grounds for redistribution.

As a final takeaway, this paper shows how a basic income program can provide more than just a solution to automation-driven unemployment. It can also be used to tackle problems such as economic inefficiency and fluctuations, inflation/deflation, and even family breakdown. Basic income should be recognized as a policymaker's Swiss Army knife: a highly-versatile tool for solving a broad variety of social problems. Whether or not one supports the specific program advocated in this paper, the author hopes that it will broaden the way we look at basic income's potential.