

A Response to Kevin Carson

By Jeff Graubart

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Mutualist blogger Kevin Carson reviewed the second version of AFFEERCE. He was quite surprised at my ignorance of the Georgist movement and the land value tax, as it would be a good fit for AFFEERCE. Indeed, as I traveled from one ideology to another in my quest for the perfect solution, the name Henry George never came up until Carson's review. I am eternally grateful to him for bringing the land value tax (LVT) to my attention. The implementation of the LVT used in the third version of AFFEERCE (trebling, self-assessment, land seizure) has not only replaced the embarrassing 70% VAT but is vital to the very business plan itself. Like a naïve young ideologue with a newly discovered toy, I find myself claiming that a properly implemented LVT can do everything but slice bread, and probably that too. It certainly has put the debate on the birth tax in a new light, now that it is no longer a financial necessity. More about that later.

One of the nice things about a business plan for a mutualist solution, is that ego takes a backseat to the bottom line. I prefer to think of myself as an editor of logically consistent good ideas that will convince investors that it is financially as well as morally advantageous to build a new world within the old dying one. Some solutions, like the VSG and VOS, are somewhat ad hoc. Perhaps they fill a void waiting on something better. Unfortunately, Carson's suggested replacement, a "liberated tort law", is anything but.

Carson states, "I get no indication that he's familiar with such writers on the mechanics of a free market regulatory regime as David Friedman or Morris and Linda Tannehill." I'm not sure what I am supposed to have read, but in Friedman's *"The Machinery of Freedom"* and the Tannehills' *"The Market for Liberty"* the author's go to great lengths decrying the evils of government regulation, but throw out only a few platitudes on the mechanics of a free market regulatory regime. Regulation is intended to solve an untold number of problems for both business and consumers. Business law tomes fill bookshelves at the law library covering these issues. While I might be receptive to a 2000 page treatise that addressed all of these and showed how a free market regulatory regime and a "liberated tort law" solved the problems, there is no such book, nor could there be.

Carson goes on to say, "I think Graubart underestimates the extent to which a liberated tort law, in its full vigor and without liability caps and other forms of right-wing 'tort reform' promoted by business lobbyists, would strike fear into the hearts of potential defrauders and malfeasants." I find it odd that he would think this. I would never underestimate the chilling effects of tyranny. All of us are "potential" defrauders and malfeasants. Business is already stymied from its fear of liability. Elimination of liability caps would effectively raise the cost of doing business for everyone. But this isn't all. Carson goes on to advocate one of the most frightening thing I have ever read.

"Before these judge-made modifications to the classical law of torts, it wasn't necessary to prove negligence. If you did something that resulted in an unforeseen harm to your neighbor, you were liable for it, regardless of intent." This isn't freedom, but terror. If proving negligence is no longer a requirement of torts, totalitarianism can flourish.

The VSG takes regulation away from Congress and puts it in a standards group made up of competing businesses in the industry and consumers. Furthermore, any business for adults is allowed to violate those standards, provided they clearly post their VOS, or if the VSG demands, get VOS sign-off from the consumer. The VOS protects against liability, giving business great freedom to experiment with unconventional ideas on willing consumers. The VSG has all of the tools of today's regulators except to prohibit transactions by consenting adults. Whether the VSG/VOS system is optimal remains to be seen, but it remains, by far, the best solution to date.

Gödel proved that no system is fully consistent and complete. AFFEERCE has the mechanism of the super-plurality to resolve conflicts in natural rights, and a super-duper plurality (5/6) to abridge rights when some malfeasant slips through the cracks of VSG/VOS. I can't imagine Carson would rather invest such super-powers in a jury of twelve, or a single judge.

Moving to universal entitlement, Carson and I are now fairly close, in that we both support universal entitlement paid for by land rents. Where we differ is in the necessity of such entitlement. Carson does not believe society would devolve into barbarism without it.

Carson says, "Graubart underestimates how drastically a genuine free market economy would differ from our present one in structural terms." Again, I'm surprised he would say that. Our visions of free markets, in terms of communes, kibbutzim, collectives, family business, community business, worker's syndicates, what have you, are almost identical. Where we differ, is that, at least for the first hundred years or so, there will also be giant corporations, holdovers from today, competing with these collectives. It is precisely during these first few centuries, that universal entitlement is essential. I do not doubt that in the distant future of AFFEERCE or any successful mutualist endeavor, new modes of human behavior will make universal entitlement moot, but without universal entitlement, barbarism in the transition is inevitable.

To see why, one only need ask what becomes of those corporations that Carson dismisses. Suppose our embryonic society has grown to 30% of the nation. Do we amend the constitution to eliminate protectionism and allow small businesses to collude? Carson is against constitutional amendments despite that being the only way he could hope to fairly challenge the major corporations. Perhaps he wants to hit them up with "liberated tort laws." That "no negligence needed" ought to send every last one of them scurrying for the exits. That, too, would require a constitutional amendment, one I would strongly oppose. Does Carson honestly believe that collectives in this embryonic nation are going to compete and defeat the major corporations? Let's assume this far-fetched conclusion is true. One by one the Fortune 500 companies start folding. A large number of workers would lose their jobs. Failure would spread from one industry to another. Workers' collectives in the embryonic society will be organic structures, evolved over years. They could neither absorb nor support millions of unemployed. If anything, the workers collectives would hunker down and protect their own turf. Ironically, if the large corporations do not fail, the collectives would better be able to absorb the technologically unemployed, than the sea of unemployed from general corporate failure. Whatever happens to major corporations, universal entitlement is a necessity.

Even the collectives will fail more often than not. Most small businesses do. Failure is a good thing. It allows individuals or groups to learn from their mistakes and build something qualitatively superior. We want our collectives to be frequently failing so they can restructure in a better way, or move into a more profitable enterprise. But in the meanwhile, what do they eat and where do they sleep and how could they train for a new enterprise?

Not only is universal entitlement necessary to prevent barbarism due to dislocations from corporate failure, but it is the very ingredient that allows workers' collectives to successfully form on any scale in the first place. In other words, the embryonic nation will never grow to 30% of the nation, unless they are able to support some kind of universal entitlement within the embryo. That is precisely how they manage the difficult task of feeding and housing each other as they restructure, retrain, or switch to more profitable enterprise.

Unless Carson is planning a planned economy, there is no way to faithfully predict the ratio of corporations to organic collectives. It is more likely that desktop factories complete with 3D printer, will augment large corporations rather than replace them in the next hundred years. The rules of freedom should hold true no matter what happens.

In a sense Carson argues against himself when he dismisses capitulation. Neither the LVT nor universal entitlement could exist without constitutional amendment. How long must the embryonic nations suffer with dual taxation, since the income tax itself is built into the constitution? Does Carson believe that the current crony capitalist state will just disappear? Without a constitutional mandate, Carson still expects his hobbled collectives to defeat the large corporations. That is incredible.

In AFFEERCE, universal entitlement is the incentive used to entice the general population to pass the constitutional amendment package. A working universal entitlement in the embryonic nation, funded by an LVT in the embryonic nation, and a demonstration of its extensibility, is sufficient to create envy and win people over. Without appealing to that basic need for security, the population will vote for the devil they know over the devil they don't, every time.

With all of this funded by rents on land, what is the purpose of a birth tax? Carson is confused by the arguments for a birth tax in Version 2, and perhaps with good reason. A birth tax of \$600,000 was onerous and would serve to allow only the wealthy to have children. Without the land tax, there seemed no other way, even though the complete birth tax would be phased in over centuries. My own ambiguity showed through the arguments.

There was a temptation to throw out the birth tax in Version 3, but that would have been a grave mistake. Upon developing the arguments over the past year, I have discovered it is intrinsic to the theoretical basis of a utopian society. Feminists and ecologists will demand it, and the feminist argument is considerably expanded in Version 3. I have also attached sufficient disclaimers, and reasons for inclusion, of the apocryphal racist narrative; the parable being critical for understanding the relationship of childbirth to natural rights. Heavy use is made of Garrett Hardin's Tragedy of the Commons, where the argument is eloquently framed.

Despite the controversy surrounding a birth tax, it is no longer a show stopper. With all income discretionary, and its small size, it is no longer beyond the means of anyone capable of saving money. The proposed initial amount will mean a 100% return on investment in under seven years. If Elinor Ostrom is correct in her notion that peer pressure and other subtle forces will protect the commons and women's rights without a tax, the birth tax will simply wither away.