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Is unlimited inheritance un-American?

by Jim Grote

After a first term focused on Iraq, President Bush has turned some of the political capital earned in the recent election toward domestic policy and the Axis of Taxes — income, capital gains and estate, respectively. The first tax he seeks to cut, the second to cripple and the third to kill. Given the current costs of the war in Iraq and historic budget deficits, his crusade to make the tax cuts of 2001 (EGTRRA — Economic Growth and Tax Relief Reconciliation Act) and 2003 (JGTRRA — Jobs & Growth Tax Relief Reconciliation Act) permanent betrays an almost faith-based stratagem for balancing the federal budget.

The President's campaign against the "death tax" is particularly curious in light of the historical circumstances and political arguments that gave birth to this tax in the first place. Historically, the estate tax in America has been a product of both anti-aristocratic sentiment and military necessity. The first American transfer tax, enacted in 1797 and later repealed, was designed to help build a navy to counter French aggression on the high seas. Subsequently, Congress passed what would become temporary wartime estate taxes — during the Civil War in 1862, the Spanish-American War in 1898, and World War I in 1916. The last tax, however, was not repealed after conflicts subsided. Clearly, there is no historical precedent for abolishing estate taxes during a war.

For the moment, Mr. Bush has failed to muster the 60 votes needed in the Senate to permanently repeal the estate tax. However, while the tax lies semi-comatose on the operating table, Congressional Kevorkians continue their attempt to finish it off. Their legislation elimi-

nates all the sunset provisions of the 2001 and 2003 tax cuts, making the estate tax repeal permanent. Opponents of the estate tax have obviously won the rhetorical high ground by labeling the tax as a death tax. The oversimplification in the slogan obscures a true understanding of the issues involved. With the estate tax debate achieving new heights of ideological intensity, it behooves us to reflect on the origins and history of this tax. In the midst of all the populist hype about the evils of the estate tax, the populist arguments that led to an estate tax are easily forgotten.

Opponents of the estate tax have obviously won the rhetorical high ground by labeling the tax as a death tax.

As Bill Gates, Sr. puts it: "Today's debate is missing this historical concern." Instead of rational debate, we have a Montana rancher driving his tractor from the Capitol to the White House to deliver an estate tax repeal bill (a rancher who had received $450,000 in farm subsidies from U.S. taxpayers) and minority business leaders and family farmers tearfully testifying before Congress about the cruel fate awaiting their children. According to Pulitzer Prize winning reporter, David Cay Johnston of *The New York Times*, the American Farm Bureau Federation (a strong pro-repeal group) has been unable to provide one single example of a farm lost to estate taxes. The statistical impact of the estate tax on family farms and minority businesses is slight and becomes virtually extinct with the scheduled raising of the applicable exclusion to $3.5 million.

To separate the current rhetoric from the historical reality, it is important to examine the thinking of proponents of the estate tax, individuals from a broad range of the political and

historical spectrum — e.g. Thomas Paine, Alexis de Toqueville, Andrew Carnegie, Theodore and Franklin Roosevelt, Warren Buffet, and William Gates, Sr. to name a few.

THOMAS PAINE

"God gave the Earth as an inheritance for all God's children."

Thomas Paine sparked the first bestseller in American history — a fiery pamphlet entitled, *Common Sense* (1776), which sold over 120,000 copies in its first few months of publication and successfully encouraged a declaration of independence from England. The heart of Paine's famous pamphlet contains a withering criticism of hereditary government. This critique extends through all his works. "All hereditary government is in its nature tyranny." "Hereditary succession … is in its nature an absurdity, because it is impossible to make wisdom hereditary …. History informs us that the son of Solomon was a fool." "To the evil of monarchy we have added that of hereditary succession; and as the first is a degradation and lessening of ourselves, so the second … is an insult and an imposition on posterity."

Later in life, Paine extended this critique of inherited political power to a critique of inherited economic power. It is important to remember that Paine distrusted governments, disliked taxes, and heartily approved of late night tea parties in Boston Harbor! He opens *Common Sense* with an attack not only on monarchy, but also on government itself. "Government even in its best state is but a necessary evil."

Modern libertarians tend to adopt Paine as their patron saint, stressing his description of government as evil while forgetting the modifier, "necessary." Paine, unlike modern libertarians, never viewed "the government" and "the people" as mortal enemies. As he says, "Government and the people do not in America constitute distinct bodies." His love of liberty

was tempered by a commitment to the common good. Ironically for a revolutionary, he wrote an entire pamphlet, *The Necessity of Taxation* (1782), arguing that taxation is the "criterion of public spirit."

In two works, *The Rights of Man* (1791) and *Agrarian Justice* (1797), Paine argues for the adoption of an inheritance tax in England to balance out the unfair distribution of "landed property." For Paine it is common sense that God gave "the Earth as an inheritance" to all of God's children. Therefore, he proposed an inheritance tax to create a national fund that (1) would give the sum of 15 pounds sterling to everyone turning 21 years old as a compensation for the loss of their "natural inheritance," and (2) would give a sum of 10 pounds a year to every person over the age of 50 as an early version of Social Security.

Paine viewed democracy as a sensible middle ground between aristocracy and socialism. He was not an enemy of private property (far from it), but a fierce critic of inherited privilege. In the *Rights of Man* he justifies the inheritance tax as being a derivative of the existing luxury tax. As he says, "an overgrown estate is a luxury at all times, and as such is the proper object of taxation."

ALEXIS DE TOQUEVILLE

"It was estate law that made equality take its last step."

Toqueville, a French aristocrat, published in 1835 and 1840 what is perhaps (after the *Federalist* papers) the greatest tribute to democracy in American political literature. It is definitely the most quoted. In *Democracy in America*, Toqueville argues that an "equality of conditions" (equality of opportunity) permeates our American spirit, laws, and

customs. The heart of the American experiment entails a rejection of inherited privilege. Indeed, he observes that Americans "will put up with poverty, servitude, and barbarism, but they will not endure aristocracy."

The breakup of wealth by estate law does not prevent wealth, but brings citizens to a common level from which they constantly escape.

According to Toqueville, the secret of our democratic success lies in a few simple facts: (1) the courageous action of the American Revolution, (2) the wisdom of the Constitution (with its checks and balances), and, interestingly enough, (3) American estate law. "It was estate law that made equality take its last step. I am astonished that ancient and modern political writers have not attributed to estate laws a greater influence on the course of human affairs."

Estate laws tend either to concentrate wealth or to divide wealth. The Europe of Toqueville's time was still overcoming the aristocratic laws of entail and primogeniture. Under the law of entail, landed property could not be sold, but only bequeathed (usually to the oldest son). The law of primogeniture conferred all rights to inherit property on the first-born male in the family. However, in many of the colonies (even before the Revolution), the American law of equal partition mandated that a father's goods be divided among all his children. Truly a revolutionary way of thinking in those days!

The last traces of rank and hereditary distinction were destroyed in America by the quiet workings of these estate laws. Aristocracy was replaced by competition. "It is not that there are no rich in the United States as elsewhere; indeed, I do not know a country where the love of money holds a larger place in the heart of man and where they profess a more profound

scorn for the theory of the permanent equality of goods [i.e. socialism].” The breakup of wealth by estate law does not prevent wealth, but brings citizens to a common level from which they constantly escape. According to Toqueville, this “leveling effect” of U.S. estate law created an industry and ambition in America that was in marked contrast to the idleness of European aristocracy.

Toqueville goes so far as to say, “no great changes in human institutions will be made without discovering estate law in the middle of the causes of that change.” His only criticism of American estate law was that it did not go far enough in the area of taxing estates. Still, its emphasis on equal partition was a great step forward.

ANDREW CARNEGIE

“Great sums bequeathed often work more for the injury than the good of the recipients.”

Growing up in the slums of Scotland rather than the palaces of France, Andrew Carnegie reached remarkably similar conclusions to Toqueville. He heartily endorsed estate taxes. The greater part of this steel magnate’s little *magnum opus*, *The Gospel of Wealth* (1889), evaluates the three possible ways to dispose of one’s wealth: (1) leave it to the family of one’s descendents, (2) bequeath it for public purposes, and (3) administer it during one’s life. Carnegie abhorred the first, tolerated the second, and encouraged the third. He asks his reader: “Why should men leave great fortunes to their children?” If it is from affection, then it is a misguided affection because “great sums bequeathed often work more for the injury than the good of the recipients.” The instances of public servants that live off their wealth in order to devote themselves to community service are rare. “It is not the welfare of the children, but family pride, which inspires these legacies.”

Carnegie sharply distinguishes between the intended consequence of the inheritance tax (to create funds for public purposes) and its unintended consequence (private philanthropy). The unintended effect of the tax is "to induce the rich man to attend to the administration of wealth during his life." Wealth is a trust fund for the community that helps the rich "dignify their own lives." According to Carnegie, philanthropy in a capitalist economy solves the problem of rich and poor alike. "The laws of accumulation will be left free, the laws of distribution free. Individualism will continue, but the millionaire will be but a trustee for the poor."

Carnegie concludes his famous tract with the words: "The man who dies rich dies disgraced." Carnegie practiced what he preached. He testified before Congress in favor of an estate tax and he gave away over 90% of his estate before his death, leaving a modest trust fund for his family. He included a trust fund for Theodore Roosevelt's widow because the government at the time made no provision for the wives of former presidents.

THEODORE AND FRANKLIN ROOSEVELT

"Inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government."

Perhaps if Theordore Roosevelt had experienced Carnegie's largesse he would have liked him more. Roosevelt admired Carnegie's principles, but personally never got along well with him. However, the Rough Rider was an avid proponent of Carnegie's commitment to the inheritance tax. Being a member of the equestrian class himself, Roosevelt paid dearly for his ideas. In a letter to Marshall Stinson he lamented: "The great bulk of my social friends

violently disagree with me on this point. Now I do not intend to refuse to associate with them because of this disagreement, nor yet to give up my own views on the subject."

Roosevelt first proposed an estate tax during his famous "muckrakers" speech on April 14, 1906, where he lambasted journalists for their unrelenting assaults on the evils of big corporations. Conservatives in the crowd cheered the first part of this speech but were quite dismayed when, in the same speech, he turned and recommend an estate tax on wealthy Americans. Part of Roosevelt's concern at the time, as he told William Howard Taft, was his opinion that the excesses of the very rich were leading to an increase in socialist propaganda, a situation he greatly feared.

The unintended effect of the tax is "to induce the rich man to attend to the administration of wealth during his life."

His formal proposal of a federal inheritance tax came in a message to Congress on December 4, 1906. His reasoning is quite different from Carnegie's. Carnegie thought that the wealthy had a particular obligation to the poor. Roosevelt thought that the wealthy had a special obligation to the government itself. "The man of great wealth owes a peculiar obligation to the State, because he derives special advantages from the mere existence of government." The wealthy individual needs to pay for the "protection" that the State provides for his or her property — a military force that defends private property from foreign threat and a legal system/police force that protects private property from domestic theft. Roosevelt is echoing Adam Smith's

observation in the *Wealth of Nations*: "It is only under the shelter of the civil magistrate that the owner of valuable property can sleep a single night in security."

Roosevelt had no intentions of taxing small estates. "It is most desirable to encourage thrift and ambition, and a potent source of thrift and ambition is the desire on the part of the bread–winner to leave his children well off. This object can be attained by making the tax very small on moderate amounts of property." Roosevelt's estate tax was aimed at enormous fortunes like those of the Rockefellers, Vanderbilts, Astors, and Morgans. His original intent was "to break up the swollen fortunes of the rich," not to tax minority businesses and family farms.

Franklin Roosevelt shared Teddy's concerns. As he said in a speech to Congress in 1935: "The desire to provide security for one's self and one's family is natural and wholesome, but it is adequately served by a reasonable inheritance. Great accumulations of wealth cannot be justified on the basis of personal and family security. Such inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government. A tax upon inherited economic power is a tax upon static wealth, not upon that dynamic wealth which makes for the healthy diffusion of economic good" (*Congressional Record*, June 19, 1935).

WARREN BUFFETT

"The idea that you get a lifetime of privately funded food stamps based on coming out of the right womb strikes at my idea of fairness."

Renowned investor and billionaire, Warren Buffett, is one of the greatest defenders of the inheritance tax today. His biographer, Roger Lowenstein, relates the following story in *Buffett: The Making of An American Capitalist* (1995). "Once, at a Q & A at Cap Cities, Buffett was asked

how he would rewrite the tax code. 'If I really could do it, it would shock you,' he said. He'd tax the hell out of personal consumption — at progressively higher rates — and impose an 'enormous' inheritance tax." On another occasion, when asked what the right amount to leave one's children was, Buffett retorted, "a few hundred thousand ought to do it." And he sticks to his word. He never gives his own children more than the gift exclusion amount every Christmas — currently $11,000 (indexed for inflation). And he plans on leaving the lion's share of his fortune to the Buffett Foundation.

Like Paine, Buffett argues that if talent can't be passed down to later generations, neither should money.

Buffett's critique of inherited wealth is reminiscent of Thomas Paine's acid-penned diatribes. To quote Buffett: "The DuPonts might believe themselves perceptive in observing the debilitating effects of food stamps for the poor, but were themselves living off a boundless supply of privately funded food stamps...The idea that you get a lifetime of food stamps based on coming out of the right womb strikes at my idea of fairness." Like Paine, Buffett argues that if talent can't be passed down to later generations, neither should money. "Warren explained that if he were the quarterback of the Nebraska football team it wouldn't be fair of him to pass down the job to a son or daughter, and that he felt the same about his money."

Over a two hundred year history, estate tax proponents have focused on two arguments: the fairness issue (inherited wealth is not fair to the working class) and the productivity issue (inherited wealth is not beneficial for its recipients). Recent

empirical studies have confirmed the productivity argument. In *The Millionaire Next Door* (1996), researchers Thomas Stanley and William Danko conclude that lifetime and testamentary family gifts are both a disincentive to work as well as a disincentive to save. Their findings show that the more dollars adult children receive, the fewer they accumulate, while those who are given fewer dollars accumulate more.

Furthermore they find that the giving of such gifts (which the authors call "economic outpatient care") is the single most significant factor that explains the lack of productivity among the adult children of the affluent. Their advice: teach your children to achieve, not just to consume. Stanley and Danko propose a declaration of independence for children of the affluent akin to the one Thomas Paine proposed for the American offspring of the British.

Buffett goes further than Franklin Roosevelt in his apprehension about the effects of vast inheritance on a democratic form of government. Not only does concentrated wealth undermine democracy, Buffett argues that inherited wealth undermines the free market system itself! "Without the estate tax, you in effect will have an aristocracy of wealth, which means you pass down the ability to command the resources of the nation based on heredity rather than merit." In another sports analogy, he argues that repealing the estate tax would be a terrible mistake equivalent to "choosing the 2020 Olympic team by picking the eldest sons of the gold-medal winners in the 2000 Olympics" (*New York Times*, February 13, 2001). For Buffett, economic productivity requires competitive markets, and competitive markets require a level playing field.

WILLIAM GATES, SR.

"The fate of the estate tax goes to the heart of the American experiment."

Another leading proponent of the estate tax is the father of Microsoft's Chairman, Bill Gates. Bill Gates, Sr., a retired lawyer who runs the world's wealthiest charitable foundation, has launched a petition effort, the "Call to Preserve the Estate Tax" (www.responsiblewealth.com), that now includes over a thousand prominent investors and business leaders (that will owe estate taxes) who are calling for the reform (e.g. higher applicable exclusions) but not repeal of the estate tax. In addition, Gates and co-author Chuck Collins, an heir to the Oscar Meyer fortune, have penned a thin volume in the spirit of Paine's *Common Sense*, entitled *Wealth and Our Commonwealth: Why America Should Tax Accumulated Fortunes*.

In his famous book, *The Prince*, Machiavelli remarks that luck (*fortuna*) accounts for a full half of whatever success or failure worldly enterprises experience.

Gates has testified before the Senate Finance Committee that without an estate tax there will be "an aristocracy of wealth that has nothing to do with merit." In an editorial in the *Washington Post*, Gates accuses Congress of caving into the pressure of ideology over reality. He is more than willing to pay what he estimates will be a personal estate tax bill of $6.8 million because he recognizes that the American society has played an important role in the creation of his personal wealth.

As he says: "The unspoken little secret is that great wealth is never entirely the result of individual achievement. We underestimate the role of luck, privilege and God's grace in our good fortune. And we dismiss the incredible contribution our society makes to creating the fertile soil for successful private enterprise through public investment. Take anyone of the

Forbes 400 and drop them into rural Africa and see how much wealth they would amass." Gates' emphasis on the role of luck in the creation of wealth is in full agreement with a tough Renaissance politician who makes modern Republicans look like bleeding-heart liberals. In his famous book, *The Prince*, Machiavelli remarks that luck (*fortuna*) accounts for a full half of whatever success or failure worldly enterprises experience.

Like Toqueville, Gates believes the estate tax is essential to democracy in America. "The fate of the estate tax goes to the heart of the American experiment. What has made America distinct from Europe is our effort not to create hereditary aristocracies and suspicion of concentrated wealth and power weakening our democracy. It was understood a century ago that the estate tax was an attempt to balance conflicting American values: on the one hand, our respect for private enterprise and personal wealth, and on the other, our concern for democracy and equality of opportunity. Today's debate is missing this historical concern. In its place we have come to worship a myth of individual merit and success" (*Washington Post*, May 25, 2001).

President Bush's push for estate tax repeal betrays no sense of this historical concern. One energetic journalist questioned Bush about Teddy Roosevelt (a fellow well-born governor) and Roosevelt's concern about huge concentrations of inherited wealth. How else could great wealth be broken up other than with taxes? Bush retorted, "Generations who don't have to work would blow their inheritance. I believe that. I'm not kidding you" (*Newsweek*, January 17, 2000).

CONCLUSION

Surely, the estate tax debate deserves a more thoughtful analysis. An understanding of the history of the tax can only help elevate the discussion above cheap repeal slogans like "death

to the death tax" and "no taxation without respiration." And Warren Buffett's witty observation about privately funded food stamps deserves more attention than it has received. Heiress Paris Hilton is hardly a model of the American work ethic, but no one is making her a target of welfare reform.

Over two hundred years ago, our nation created the world's greatest democracy by rejecting George the Third's world of inherited privilege.

In fact, public welfare pales before private "unearned income." Out of a population of almost 300 million, about 2 million American adults (and another 3 million children) receive temporary welfare payments (5-year time limit) from the TANF program (Temporary Assistance for Needy Families). These payments represented a transfer of federal and state funds in the amount of $29 billion in FY2003 (Dept. of Health and Human Services). Another $21 billion in federal funds in FY2003 was paid out in food stamp benefits (Dept. of Agriculture).

By contrast, one economic analysis estimated the cross-generational bequest flow in 1997 to be $180 billion (http://www.clev.frb.org/research/com2000/1001.htm). The same study estimated that 1.6% of the population (close to 5 million people) received substantial bequests (amounts over $100,000). And these bequest amounts do not begin to include the massive amount of trust fund benefits and other *inter vivos* giving which Warren Buffett would no doubt include under his "privately funded food stamp" category. Determining how many people receive inherited wealth is no easy task. However, while "economists disagree greatly in their estimates of the percentage of capital accumulation in the United States that is due to gifts or bequests, estimates average out to about 50%" (Murphy and Nagel, *The Myth of Ownership*). That's not chump change.

In closing, no sane person would want family farms and businesses jeopardized because of the estate tax. However, current reform legislation that will allow $3.5 million per individual ($7 million per married couple) to pass tax-free to the next generation (along with other provisions in the Internal Revenue Code) provides for this problem. The rest of the "death to the death tax" furor is more rhetoric than reality. Not one of the estate tax proponents quoted in this article is remotely socialistic. They include the most successful capitalists in the history of the United States, citizens who simply believe there should be limits to inherited wealth in much the same way that President Bush believes there should be limits to punitive damages. Both positions are critical of "lottery capitalism."

Over two hundred years ago, our nation created the world's greatest democracy by rejecting George the Third's world of inherited privilege. George Bush's defense of unlimited dynastic wealth appears to be at odds with the spirit of the Founding Fathers, particularly *the* Founding Father, George Washington. In a recent biography, Joseph Ellis refers to Washington's final piece of writing, his last will and testament, as "one of the most historically significant and personally revealing documents he ever wrote," on par with his famous Farewell Address.

"The principle he chose to apply in distributing the fortune he had accumulated [$530,000 not including slaves and Mount Vernon] represented a personal statement almost as dramatic as his decision to free his slaves; there would be an equal division among twenty-three heirs." This equal distribution discouraged a family dynasty and encouraged his heirs to work. He had seen the sad effects of unearned wealth on his stepson and grand-stepson. As Ellis concludes, "If the provisions in the will concerning slavery constituted a statement about freedom, those allocating his assets constituted a statement about equality of opportunity" (from *His Excellency: George Washington*).

There is an unavoidable paradox at the heart of inherited wealth. Hard work produces wealth and wealth discourages hard work. Surely the estate tax is a modest proposal compared to the alternatives of an economic aristocracy discouraging hard work and a socialistic state discouraging the accumulation of wealth. While the repeal of the estate tax would hardly be the end of democracy in America, it would be the end of a pre-eminently American tradition.

FOR FURTHER READING

Gates, Sr., William H. and Chuck Collins. *Wealth and Our Commonwealth: Why America Should Tax Accumulated Fortunes*. Boston: Beacon Press, 2002.

Murphy, Liam and Thomas Nagel. *The Myth of Ownership: Taxes and Justice*. New York: Oxford University Press, 2002.

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Wood, Gordon. *The Radicalism of the American Revolution*. New York: Vintage Books, 1991.

ESTATE TAX CHRONOLOGY

1791 Thomas Paine proposes an inheritance tax for England in *The Rights of Man* and later in *Agrarian Justice*

1797 Stamp Act of 1797 enacts small graduated transfer tax in America in order to develop a strong navy

1802	Transfer tax repealed
1835	Alexis de Toqueville praises American progressive estate law in general
1862-66	A series of Acts creates a federal inheritance tax in order to help finance the Civil War ($1,000 exemption)
1870	Inheritance tax repealed
1889	Andrew Carnegie recommends a heavy estate tax in *The Gospel of Wealth*
1898	War Revenue Act of 1898 establishes estate tax to defray costs of Spanish–American War ($10,000 exemption)
1902	Estate tax repealed
1906	Theodore Roosevelt proposes a graduated inheritance tax to Congress
1916	Estate taxes become permanent source of federal revenue with the Revenue Act of 1916 ($50,000 exemption)
1924	Federal gift tax enacted to prevent avoidance of estate tax
1926	Repeal of gift tax and lowering of estate tax
1932	Gift tax reinstated and estate tax rates raised to fund federal programs dealing with the Great Depression
1948	First marital deduction (50% of adjusted gross estate)
1976	Unification of estate and gift tax systems in Tax Reform Act of 1976 ($120,667 exemption)

1981	Economic Recovery Act of 1981 raises exemption to $225,000 and creates unlimited marital deduction
1986	Tax Reform Act of 1986 raises exemption to $600,000
1997	Taxpayer Relief Act of 1997 raises exemption to $1,000,000 (phased in between 1998 and 2006)
2001	Economic Growth and Tax Relief and Reconciliation Act of 2001 separates estate and gift tax systems, raises exemption to $3,500,000 (phased in between 2001 and 2009), repeals estate tax in 2010, and reinstates estate tax in 2011.

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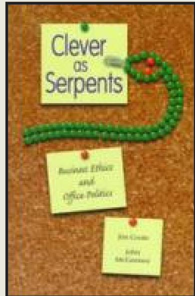

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ABOUT THE AUTHOR

Jim Grote, CFP. is a financial writer with over 20 years experience as a development officer. A member of Planned Giving Today's Editorial Advisory Board, he has recently written for *Bloomberg Wealth Manager*, *Families in Business*, *Family Business Review*, *Financial Advisor*, *Journal of Financial Planning*, and MorningstarAdvisor.com. He received a Certified Financial Planner Board Article Award in the Professional/Trade Category in both 2003 and 2004.

Jim has been an adjunct professor in Business Ethics and Philosophy at several universities. His book (co-authored with John McGeeney), Clever as Serpents: Business Ethics and Office Politics, was translated and published in Germany and Indonesia. Email: jimgrote@hotmail.com. Phone: 502-473-1729.
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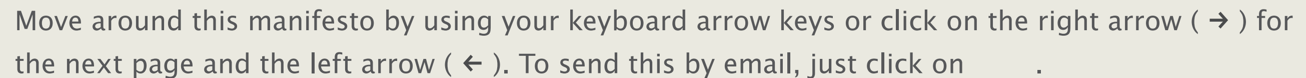

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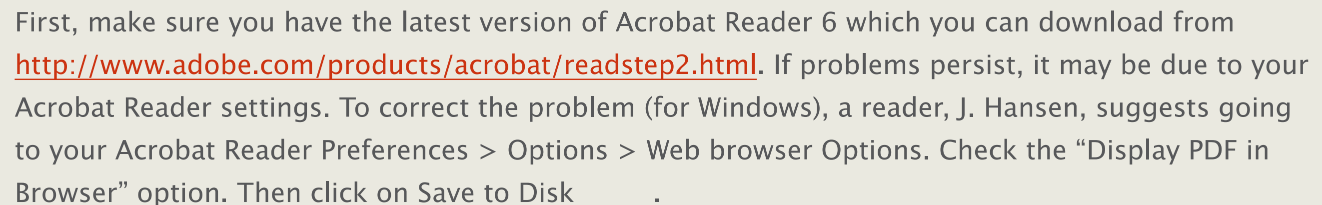

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